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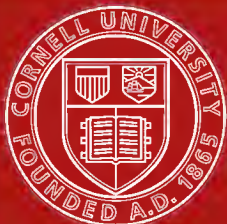


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STATE OF NEW YORK.

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PUBLIC PAPERS

OF

DAVID B. HILL,

GOVERNOR.

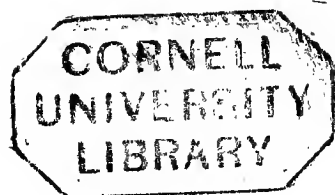
1891.

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ALBANY, N. Y.

1892.

A. 44889





PUBLIC PAPERS  
OF  
GOVERNOR HILL,  
1891.

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ANNUAL MESSAGE.

STATE OF NEW YORK.

EXECUTIVE CHAMBER,  
ALBANY, January 6, 1891. }

*To the Legislature :*

In entering upon the seventh and last year of my service as chief Executive of the State, I will not affect to conceal my gratification at the fact that for the first time during the past seven years the popular branch of the Legislature is in political accord with the Executive.

I congratulate you and the people of the State that notwithstanding the existence of an unfair and unjust apportionment the popular voice has at last found expression in the selection of one house of the Legislature which is in harmony with the sentiments of a majority of the people.

While it is true that one body alone cannot enact the legislation demanded by the public interests, yet it is believed that the potent

influence of the recent popular verdict is such that the whole Legislature will now be inclined to respect the popular wishes which have been so emphatically manifested and heretofore so long disregarded.

The measures which the people require are well understood. Foremost among them is the proposition for an enumeration of the inhabitants of the State in conformity with the express requirements of the Constitution.

#### AN ENUMERATION DEMANDED.

An enumeration is necessary for the purpose of basing thereon a reapportionment of the Senate and Assembly districts. The federal census of 1890, defective as it is generally believed to be, demonstrates clearly the injustice of the present apportionment. That apportionment was based on an enumeration taken fifteen years ago, and since then the population of the State, according to the federal bureau's count, has increased more than 1,300,000. Nearly one-fourth of the inhabitants of the State have been denied just representation by the Legislature's persistent refusal to authorize a new enumeration. The federal figures show, incomplete as they are, that there have been in the last fifteen years radical changes in the relative number of inhabitants in various localities of the State. In the cities of New York and Brooklyn the increase of population is at least 800,000, while most of the other cities of the State have grown proportionately. Yet 85,000 people in St. Lawrence county are represented in the Assembly by three members, while nearly eighteen times as many in New York, and ten times as many in Brooklyn, continue under the present apportionment to be represented by only eight and four times as many members respectively. Under a fair apportionment, based on an accurate enumeration, New York would be entitled to thirty-three or thirty-four members of Assembly instead of twenty-four, and Kings county would have seventeen members instead of twelve. In the Senate, the section of the State below the Harlem river

would be represented by fourteen Senators instead of eleven. It is a flagrant wrong longer to deny a fair representation to cities which pay more than half of the State taxes.

Inequitable, however, as the federal census proves the present apportionment to be, it is believed that an accurate enumeration would show even more striking inequalities. Throughout the State there has been manifested a deep-seated mistrust of the accuracy of the federal count. It has been demonstrated quite clearly that in the city of New York alone nearly 200,000 inhabitants were overlooked. There is satisfactory evidence also of a deficiency in the returns for other parts of the State. An enumeration under State authority is demanded not only to correct the glaring inequalities of the existing apportionment, but the apparent inaccuracies of the federal census as well.

There need not be another census, but a simple enumeration of the inhabitants is all that is desirable and all that the Constitution absolutely requires. It seems to be now generally conceded, no matter how the matter may have been viewed in previous years, that a collection of statistics, other than a simple enumeration, would be a useless waste of public money and a wholly unnecessary procedure. The people desire and expect at this time a simple enumeration, and that is all. They have protested in unmistakable terms against the political injustice involved in the continuance of the present inequitable apportionment of the Senate and Assembly districts, and they desire to see the wrong speedily righted in the most inexpensive and simplest manner permitted by the Constitution.

In 1885 I suggested that the enumerators be appointed by the county clerks of the respective counties, expressing the opinion that such a course would be likely to secure more capable and efficient enumerators than if they were selected by the Secretary of State or other State officer, as the county clerks could have personal knowledge of the qualifications of most of their appointees in their respective counties; and having had no reason to change

my views upon this point since then, I desire at this time to reiterate that recommendation, asserting, moreover, again, what I distinctly stated in that year, "that any bill providing for an enumeration of the inhabitants of the State—and for that enumeration only—will be permitted to become a law, no matter by what methods or under the supervision of what officer the enumeration is to be taken."

The duty of the Legislature is plain. It should provide for the taking of an enumeration, to the end that a fair and just apportionment may follow in due time. That duty can not be neglected or evaded without a violation of the official oaths of those who perpetrate the wrong. It should be faithfully performed regardless of political or other irrelevant considerations.

A decent respect for public opinion, repeatedly manifested upon this question, the conscientious desire which may be assumed to exist on the part of the people's representatives to faithfully discharge a public duty, and the interests of the growing sections of the State, all unite in demanding that the constitutional obligation be performed.

#### A JUST AND REASONABLE EXCISE LAW.

The necessity for a revision of existing excise laws has been repeatedly demonstrated. It was in 1857—over thirty years ago—when the present partial or imperfect general excise law now in force was enacted. Since that date our population has enormously increased so that it is now about two-thirds greater than then, and with this increasing population, tending more and more to concentration in our large cities and populous towns and villages, inevitable and decided changes have come in the conditions under which the excise laws must be administered. Numerous innovations have been wrought in the customs, as well as the opinions of the people during that long period. Restraints and regulations then enforceable are not now effective or sufficient. Many restrictions and methods of procedure then adopted are not

now desirable. Provisions then applicable are not now appropriate or suited to large bodies of our most industrious and respectable citizens.

In the effort to meet the demands of these changed conditions, habits and opinions of our people, numerous statutes have been enacted from time to time as additions to the general law of 1857, some of which, however, are independent acts, some are supplementary, others are amendatory and of many the provisions are obscure, as well as conflicting, requiring much judicial interpretation to reconcile and understand them.

The remedy is plain, and was concisely stated several years ago by one of my distinguished predecessors in the following language: "What is needed is to substitute for all existing laws on the subject a carefully prepared statute, reasonable in its limitations and restraints, clear and explicit in all its provisions, and, above all, complete in itself ; to be uniformly, steadily and constantly enforced."

The provisions of such a general law should be fair, plain and concise, and so framed as to be capable of being easily understood, especially by those who are expected to obey it and who are so largely affected by its privileges and penalties.

It should be one symmetrical and comprehensive act, applicable to the whole State, just in its discriminations, devoid of favoritism, liberal in its provisions, strict in its penalties, and responsive to the popular demands, but neither in advance of public sentiment on the one hand, nor lagging behind it on the other. The revenues to be derived from licenses should not be paid to the State, but should belong to the local treasuries of the particular localities under whose authority the licenses are granted, to be applied in reduction of local taxation.

It is believed that the people are opposed to oppressive sumptuary laws, and in the contemplated revision the aim should be to afford to the individual citizen the largest liberty consistent with good order and the public safety, while at the same time not

offending the moral sense of the community, but seeking to mitigate and suppress the conceded evils of intemperance. The fact that with the exception of a very few localities the amounts now charged for licenses throughout the State do not exceed one-third of the sums authorized to be charged under existing laws, may be accepted as some evidence of local sentiment upon that question, and may properly be considered in determining the propriety or necessity of increasing the maximum and minimum sums which should be authorized in whatever modifications of existing laws may be proposed.

Any further expression of my views as to the general principles which should govern and the details which should be embraced in the needed excise legislation, are regarded as unnecessary at this time, because they have been fully indicated in the various communications upon this subject transmitted by me to previous Legislatures during the past five years, to which the present Legislature is respectfully referred.

#### THE PROHIBITION AMENDMENT.

Two Legislatures having passed the prohibition amendment, it must now be submitted to the people agreeably to the provisions of the Constitution. It is the clear duty of the Legislature to provide for its submission. It is immaterial whether the amendment itself was wisely or unwisely passed by previous Legislatures, or whether it would meet the approval of the present Legislature if the question were presented to it on its original merits. The good faith or propriety of its passage in other years can not be properly considered now. The fact that it has heretofore been passed by a majority who really do not believe in prohibition and who supported it in the Legislature as a matter of political expediency rather than upon principle and who do not themselves intend to support it at the polls, is an irrelevant matter which only affects the sincerity of its support and does not relieve the present Legislature from the performance of what is conceived to be its

sacred constitutional obligation to duly provide for the amendment's submission.

It should be stated that the action of the last Legislature in not itself providing *by statute* for the submission of the amendment to the people either at the last or the next annual election and particularly in declaring by a concurrent resolution that the amendment should be submitted at a *special* election to be held on the second Tuesday of April, 1891, without passing any law providing for the means or prescribing the method, manner and other details of such submission, has somewhat complicated the situation and rendered your duty a delicate and embarrassing one.

Whether the last Legislature could legally call a special election by a joint resolution and not by a statute, and whether such an election can legally be held in the absence of further legislation, are serious questions which ought not to surround so important a matter.

It may be safely asserted that the people of the State did not and do not want this amendment submitted at any special election, but prefer that it should take the usual course and be passed upon at the next annual election. This is desirable in the first place, because the second Tuesday of April is an inopportune time and consequently not satisfactory, and in the second place, because the interests of economy would be promoted thereby. It is estimated by the Secretary of State that a special election would cost the taxpayers of this State, under our present election laws, the sum of \$629,000, which enormous expense ought certainly to be avoided, if possible, to say nothing of the inconvenience and annoyance to the electors themselves.

It is believed that after a careful investigation of the questions of law and propriety involved, to which your attention is invited, it will be apparent that additional legislation is desirable as well as absolutely required, and that the most feasible and wisest course to be pursued is the speedy enactment of a proper law containing

the necessary provisions for the due submission of the amendment at the next annual election.

#### THE JUDICIARY AMENDMENT.

Two Legislatures having duly passed an amendment to the judiciary article of the Constitution providing for the election of additional justices of the Supreme Court, it will be the duty of the present Legislature to provide by suitable legislation for its submission to the people.

The last Legislature passed an act for that purpose, but it proved defective and failed to receive Executive approval, after the final adjournment of the Legislature, and hence another act becomes necessary at this time.

If, for any reason, no matter what, a constitutional obligation has been omitted, or has not been fully performed by one Legislature, it becomes the bounden duty of the next Legislature to perform it at the first opportunity.

Although it may be doubted whether the interests of the State really require this amendment at this time, and also whether it will be approved by the people at the polls, yet it having duly passed two previous Legislatures, the present Legislature has no other alternative under the Constitution, except to duly provide for its submission, and permit the people to determine the matter for themselves.

#### REFORM IN METHODS OF TAXATION.

The subject of taxation, always an interesting and important question, is one demanding your earnest attention, especially at this time.

The condition of the agricultural interests of the State, which are closely allied with its general prosperity and largely affected by any system of taxation, may appropriately be taken into consideration in determining what changes in present methods are most desirable.



It seems to be conceded that farming lands during recent years have largely decreased in value, and that the occupation of farming is gradually becoming less profitable than formerly; that the prices for farm products have been greatly and ruinously reduced; that wider and better markets, although much needed, are not forthcoming; that taxes are numerous and oppressive, as well as unequally distributed, and that a general depression seems to pervade nearly every agricultural interest.

To alleviate or remedy these unfortunate conditions is the serious problem with which the people's representatives everywhere are confronted, and the solution of which requires the exhibition of the highest statesmanship. While you may be powerless to afford much assistance in mitigating many of these complaints, it is believed to be within your province to especially and materially aid the cause of agriculture in the reduction and equalization of the burdens of government, so far as State taxation is concerned, by the adoption of some wise and practical legislation which will relieve farming lands and real estate generally from longer bearing an undue proportion of taxes, and which will compel personal property to assume its just and reasonable share. This is not an easy task, but, nevertheless, the difficulties which embarrass it are not insurmountable. Too much should not be attempted or else the risk is encountered of accomplishing nothing. A few changes in the present system of taxation may appropriately be made at this time and then await the practical results of such innovations before determining whether more are desirable.

Thoughtful observers who have made the subjects of taxation and values their careful study for many years, estimate that the value of the personal property of our State nearly equals the value of its real estate. This view is largely confirmed by the repeated statements of our State Assessors and is further partially corroborated by the records of our clerks' offices and surrogates' courts as well as other accessible information. If, however, this estimate shall seem to be exaggerated, it may at least be safely

asserted that the value of personal property exceeds seventy per cent. of the value of real estate, and that such fact would be amply established under a proper system of taxation.

Yet the assessment-rolls of the State under existing laws make a very different exhibit. According to the present assessment (the equalization of which was fixed in October last), the personal property in the State is valued at only \$385,329,131, while the real estate is valued at \$3,298,323,431, the personal property thus being assessed at only about one-eighth as much as the real estate.

It is evident that such a showing is an incorrect one and may be accounted for in part because of a lax administration of existing tax laws, but mainly because such laws are imperfect in themselves.

The manner in which assessments are to be made is fixed by the Revised Statutes, which provide that the taxable personal property owned by a person shall be taxed at its full value "after deducting the just debts owing by him."

This latter provision has existed without change or amendment ever since its first enactment in 1828, although its utility has often been seriously questioned. Every effort at modification has been stoutly and successfully resisted, notwithstanding it has been repeatedly proved that its existence furnishes the avenue through which personal property substantially escapes all taxation.

The facility with which taxation is evaded under the opportunities afforded by this clause furnishes a strong argument for its repeal.

It is urged with much force that this provision invites perjury, encourages fraud, establishes a wrong principle, prevents equality in taxation, and practically exempts personal property.

It is claimed that the true theory of taxation requires that the property of a person, and not the person himself, should be taxed, and that, therefore, the indebtedness of the owner is an

immaterial matter, and furnishes no adequate excuse for the exemption of his property.

Under the operation of the present system, where fraud is so easily perpetrated and detection so difficult, it may well be said that the taxation of personal property is virtually left to the conscience of its owner. This presents an unsatisfactory condition of affairs, and leads to the suggestion that some reform is needed in our tax laws.

Real estate now bears about eighty-nine per cent of our direct State taxation, and the injustice of this situation is so apparent that it is believed the Legislature can not longer refuse to provide some relief.

The present system of taxation is regarded not only as inequitable, but as inconsistent.

While it permits the amount of the indebtedness of an owner of personal property to be deducted from his assessment, no such reduction is permitted to the owner of real estate, even though his indebtedness may be represented by a mortgage, judgment, incumbrance or other specific lien upon such real estate. It is difficult to defend so unreasonable and unfair a proposition. The effect of this situation is that the statute in theory authorizes or permits a double taxation.

If it be proper to allow the owner of personal property a reduction in his assessment on account of his indebtedness, it would seem proper that the same course should be pursued in regard to real estate to the extent of permitting the owner thereof to have deducted from his assessment the amount of any mortgage, judgment, or other specific lien or incumbrance upon his real estate. There would seem to be no good answer to this suggestion. Tax laws like all other laws should be consistent in themselves.

If it be asserted that real estate should continue to be taxed at full value without regard to the actual interest of the owner in it because otherwise fictitious mortgages and other fictitious liens

might be created whereby taxation might be evaded, it may be answered that the same if not a better opportunity for fraud and evasion exists in reference to personal property in the creation of fictitious indebtedness upon which to claim a similar reduction of taxation.

I believe in the just and equitable doctrine that real and personal property should be placed upon an equal footing for all purposes of taxation.

Whatever rule is adopted should be applied without unjust discrimination. Either the question of indebtedness should be eliminated entirely from the matter of taxation of property, or else all taxable property should be treated alike in respect to such indebtedness.

The operation of the present system does not produce satisfactory results, in that personal property, either by reason of the provision allowing a reduction for indebtedness or otherwise, largely escapes taxation, while the burdens upon real estate are consequently increased. There has been an immense shrinkage in the assessed valuation of personal estate during the past twenty years. In 1871 such valuation amounted to over \$452,000,000, while the present valuation is only about \$385,000,000, a decrease of over \$67,000,000. With the vast increase of population, resources, wealth, and all the material interests of the State which has occurred during the past twenty years, it is not possible that the actual accumulation of personal estate has not kept pace with the march of progress which has included everything else in its onward movement.

The proposition for the equalization of the burdens of taxation here presented affects not only every farm, but every store, workshop, manufactory, and home in the State, and while inviting the most careful scrutiny of its merits, it is respectfully submitted that it is at least worthy of a fair trial.

## A PROBATE AND SUCCESSION TAX.

If, however, the Legislature in its wisdom shall hesitate to adopt the radical changes hereinbefore outlined, another method of reaching personal property for the purpose of taxation may be found in the plan of a graduated probate and succession tax upon the personal property of decedents.

Nearly all such estates are carefully appraised by impartial officials selected by our surrogate courts, and upon such appraisal the personal estate can at least be subjected to one tax, although it may never have been able to be reached during the life of the decedent. A system can easily be devised absolutely requiring all estates of decedents over a certain valuation to be administered in a surrogate's court, to the extent of obtaining an appraisal of the personal property thereof, and after allowing reasonable exemptions to the immediate next of kin, a fair percentage tax may be imposed upon the remainder, collectible in the surrogate's court, and reasonably graduated according to the value of the estate. The theory of such a graduated percentage tax seems fair and just, especially in view of the fact that personal property, under existing methods, nearly entirely escapes taxation during the life of its owner. A similar system is in operation in England, and I am advised that it works satisfactorily, and the propriety of its adoption here is suggested for your consideration.

## MARRIAGE AND DIVORCE.

The Legislature at its last session passed an act (chapter 205 of the Laws of 1890) authorizing the Governor, by and with the advice and consent of the Senate, to appoint three commissioners to promote uniformity of legislation in the United States on certain subjects, particularly the laws relating to marriage and divorce; and in pursuance thereof, three able and well-known lawyers, viz.: Henry R. Beekman and William L. Snyder, of

New York, and Irving Browne, of Albany, were duly appointed and confirmed, who are now engaged in the discharge of their important duties, and are expected to make a preliminary report to the Legislature at its present session embodying such recommendations as they believe to be desirable to facilitate the excellent objects sought to be accomplished. I bespeak for their report that careful study which the character of the subject justly demands.

#### IMPROVEMENT OF COUNTRY ROADS.

I renew my previous recommendations with reference to the improvement of country roads. While the suggestions upon this subject made in my annual message a year ago seemed to meet popular approval very generally throughout the State, they were misapprehended by some persons, who appeared to have inferred that the plan, as presented, involved the assumption by the State of control over the highways, or the heavy bonding of counties for the construction of new roads and improvements.

No such implication was intended to be conveyed in the recommendations. The plan suggested involved merely the construction at State expense and under State supervision of two highways running transversely through each county, intersecting in about the middle of the county or at its principal place, and so connected as to form a network of well-built roads through the State. It was not intended that the State should assume greater responsibility than this, but it was believed that to this extent the matter of road improvement was one of State importance—adding largely to the wealth and attractiveness of the State, as it would, by bringing agricultural lands into easier and closer access to the towns, enhancing the value of rural property, and attracting, especially in the summer months, large numbers of strangers to the State. I am as much opposed as any one can be to the assumption by the State of any unnecessary powers or responsibilities, but the initiative of so great an undertaking as the

systematic and scientific improvement of our highways must be taken by the State, or no genuine and general reform can be accomplished. The best individual efforts must necessarily be local and spasmodic.

The construction by the State, under the supervision and direction, for instance, of the State Engineer, of two scientifically built roads in each county, so that a person could start from New York, or Buffalo, or Albany, or any other place, and travel with speed and comfort through every county in the State without leaving the State roads, would be of incalculable benefit to the State at large, as well as to separate localities. The State roads would serve as object lessons in each county, stimulating local authorities to the improvement of other highways by presenting examples of substantial construction, and by illustrating the material advantages which accompany ready and satisfactory means of communication. Except in the case of these two State roads, local control would be as complete as it is now.

I need not remind you of the present disgraceful condition of our highways. For a great part of the year many of them are almost, if not quite, impassable. They are, as a rule, inferior to those in other States, especially in New England, and they are said to compare most unfavorably with those of England and the Continent. The fault has been in ignorance of construction, in lack of responsibility and in waste of energy and money in maintenance. Sooner or later our State must begin a systematic attempt at improvement, or our farming lands will depreciate still further in value, and other States will attract the wealth and population to which our resources and natural advantages entitle us. The cost of such a system of highways as I have outlined would be great, and their completion would require many years, but no better time for inaugurating the system will probably come than the present. There is now, practically, no State debt, and should it be deemed best to incur one for this purpose by a vote of the people, the slight increase in taxation would be more than

compensated by the increase in material benefits. It should not be forgotten, also, that when once proper roads are constructed the cost of maintenance, according to the testimony of competent engineers, is comparatively slight, while with but little care the roads will last for generations.

I commend this subject to your serious attention. A bill incorporating the Executive's suggestions and commonly known as the Richardson bill, was introduced in the Senate last year, but failed to receive the requisite number of votes for passage. It is hoped that the measure may receive closer scrutiny this year and that the Legislature will not refuse to co-operate in securing for the people of the State the benefits of this great public improvement.

#### RAPID TRANSIT IN NEW YORK.

The need of legislative action to facilitate the acquirement of means of rapid transit in the city of New York becomes more imperative each year. Such action can not longer be deferred without seriously retarding the city's growth and prosperity.

As to the general nature of the legislation required there is now practically no controversy. Such differences as have heretofore existed were substantially reconciled at the last session of the Legislature. A rapid transit bill failed of enactment at that session solely because the majority of one branch of the Legislature refused to accept in the measure the salutary principle of home rule in the appointment of a commission. It is to be hoped that no such short-sighted impulse will again be the means of depriving the people of New York from much-needed facilities for local transit. In a matter so distinctively of local concern and importance as the laying-out of transit routes and the supervision of transit methods, the local authorities, by themselves or officers of their selection, should be invested with the control and responsibility. To deny them that right is to deny self-government to the chief city of the State. Much as the people of New



York desire rapid transit, they do not desire it, in my opinion, as the price for the surrender of the principle of home rule. Their earnest devotion to the maintenance of this principle was manifested during the controversy over the so-called world's fair bill last spring and compelled finally its recognition by the Legislature, although the desperate effort to defeat that principle provoked and prolonged an unfortunate contest which concededly lost New York the World's Fair. In view of recent events, however, it is not believed that any further serious opposition to this principle will now be manifested.

#### THE INTERESTS OF LABOR.

(During the labor difficulties arising out of the strike of certain of the employes of the New York Central and Hudson River Railroad Company last summer, there were developed two defects or omissions in the statutes of our State to which the careful attention of the Legislature is directed, one relating to the arbitration of labor disputes, and the other concerning the employment of private detectives.)

(The statute creating the Board of Arbitration and Mediation, which provides for the amicable adjustment of labor controversies, contemplates that the functions of the Board shall only be invoked by the voluntary action of both of the parties to the dispute. Either party may decline to accept the intervention of the Board, and for such refusal there is no remedy or penalty prescribed. The theory of the statute seems to be that the State simply creates a fair and impartial standing tribunal which is always at hand, and to which the parties to a labor controversy are at liberty, without any expense to themselves, to voluntarily submit their differences for amicable adjustment; but no method of compelling such submission is provided.)

(This is probably all that can be accomplished by legislation to facilitate the arbitration of such controversies as between individuals, but as between corporations and their employes it is

believed to be possible, as well as feasible, to enlarge the scope of the existing statute by making such arbitrations compulsory.)

(Corporations are the creatures of the law, and their management and actions, as well as the conduct and relations of their employes, can, to a large extent, be regulated by statute, and the enforcement of arbitration practically controlled thereby.)

(The matter is not free from legal difficulties, but it is believed that the object sought can be accomplished by a carefully framed statute, wherein the rights of all parties may be protected.)

(The desirability of compulsory arbitration in such cases, if the same can be successfully secured, is a subject which invites discussion, and is worthy of your careful attention.)

There is no express statute in our State which prohibits or regulates the employment of private detectives during labor strikes. On such occasions, employers, whether they are corporations or individuals, have a lawful right under existing laws, to employ "Pinkerton's Detectives," or any other detectives, persons or organizations, even though armed, uniformed and organized, and no matter where their residence may be, to assist in the preservation, protection and keeping possession of their property; and this right is not affected by the fact that neither the State authorities nor local officials have any direct control over the actions of such detectives. This is the law, and the desirability of its modification is the question suggested.

It is alleged that experience has demonstrated that the use of the services of such detectives at such times becomes naturally a source of irritation and inevitably provokes violence and disturbance which otherwise would not occur. It is claimed that many of such detectives are desperate characters who seek such employment from mercenary motives mainly and because of the notoriety and excitement which it affords, and who are usually imported from distant States by the organization which employs them, and that the arming, during times of great excitement, of such an organized body of irresponsible men, who recognize no

official accountability and who are not under the control of any public official, but act under the sole direction of their chief, may well be deemed a source of danger to the peace and good order of society. It is true that such detectives are liable like all other persons for any infraction of the law, including unnecessary violence, which they may commit, but being generally strangers and uniformed, the difficulty of their identification and detection where disturbances occur usually operates to defeat justice and renders their employment more odious to the people. It is contended by many good citizens that the protection of property and the preservation of the peace in such emergencies may always more safely be intrusted to the constable, the policeman, the sheriff or other public official, and if these instruments prove inadequate, then the reputable citizens constituting the *posse comitatus* of the county, and ultimately to the military if necessary; rather than that resort should be had to an organized, armed, uniformed, unofficial body of non-residents. Private detective organizations are comparatively modern institutions, and it is urged with much force that in the absence of existing laws upon the subject, it is the true province as well as the duty of the State, through its Legislature, either to prohibit the employment or to define the functions, regulate the duties and restrict the powers of such organizations.

In framing such a remedial statute, care should be exercised not to unnecessarily infringe upon the inherent rights of citizens and property-owners, but while relieving the people from the abuses now complained of, the just prerogatives of all classes should be recognized and respected.

#### CONTESTED ELECTIONS.

I had the honor at the last session of the Legislature to suggest, in a special message, an amendment to our Constitution, whereby the determination of contested elections of members of the Legislature might be vested in the courts rather than in the Legislature

itself, and I recommended further such action by the Legislature as would be likely to bring the subject to the attention of Congress, with a view to securing ultimately a similar amendment to the Federal Constitution. Such a transfer of jurisdiction, I believe, had not been previously suggested by any public officer in the United States, and whether on account of the novelty of the suggestion or a disapproval of it, the recommendation remained unacted upon at the adjournment of the Legislature. At the time it was made, however, it was generally supported by the public press, and since then the idea, so far as it related to members of Congress, has received the strong indorsement of the distinguished Speaker of the Federal House of Representatives, in a magazine article published during the past summer.

Legislative bodies are often loth to relinquish any of their privileges, but the determination of contested elections of their members has become so much a matter of partisanship that wise statesmanship and a sense of justice would demand its transfer to a fairer tribunal. In the case of all other offices we bestow jurisdiction in contested elections upon the courts, but in legislative offices we make each house the judge of the returns, qualifications and elections of its own members, and in so doing we have opened the door to grave abuses of power—resulting sometimes in seriously nullifying the popular will and almost always in a denial of justice to rightfully elected members. A political majority usually exhibits judicial qualities only when it is large enough to be generous. Otherwise it is apt to decide election cases not upon their merits, but according to party necessities. Such practices bring our legislative bodies into disrepute and tend to promote political demoralization. In Great Britain the scandals attending the tyrannical exercise of this power by the House of Commons resulted in a surrender of the prerogative in 1868, and recent abuses of it in our own country emphasize the necessity of a speedy transfer of jurisdiction in federal and State governments here.

I therefore renew my suggestion for the passage of a concurrent resolution submitting to the people an amendment to the State Constitution which will confer upon the courts the exclusive authority to decide the elections of members of the Legislature. Our State would do well also in taking the lead to bring about a similar change in the federal Constitution. Contests for legislative offices would then, under such a modified system of adjudication, be upon the same plane with contests for other offices. A certificate of election would entitle the holder to retain his seat in the Legislature until ousted by the judgment of a competent court. I do not fear that the judiciary would be influenced by partisan motives, and the net result would be in my opinion a distinct gain in the direction of the impartial determination of election cases.

#### CHICKAMAUGA AND CHATTANOOGA NATIONAL MILITARY PARK.

The Congress of the United States has provided for purchasing the battlefield of Chickamauga, and obtaining the roads along Missionary ridge and over Lookout mountain, and establishing thereon a national military park. The State of Georgia has ceded to the United States full jurisdiction over the Chickamauga field, and the authorities of Tennessee have ceded the roads already mentioned.

New York was largely represented on these remote fields in the storming armies which carried Lookout mountain and Missionary ridge. Twenty New York organizations took part in these operations.

A national commission is now engaged in preparing historical tablets to mark all the lines of battle on both fields. The act establishing the park authorizes the States which had troops in these campaigns to erect monuments upon the government grounds to honor their fighting.

New York has already made most liberal provision for commemorating the deeds of her sons at Gettysburg. I recommend that like action be taken by the State, through the necessary legis-

lation, to preserve the history of New York troops on these celebrated fields about Chattanooga.

#### THE WORLD'S FAIR.

Federal legislation having authorized the scheme of a great World's Fair in 1893, and Chicago having been selected as the city in which the fair shall be held, it becomes the duty of each State in the Union to assist, so far as it may be able, in contributing to the success of this national undertaking. The State of New York with its commanding position in the list of States and its unlimited resources, ought not to be behind any other State in the variety and extent of its representation. I recommend such legislation and liberal action as may be deemed necessary to facilitate a proper exhibition of the State's resources and to enable the State to participate with dignity in the great exposition.

#### OTHER RECOMMENDATIONS.

Certain recommendations contained in my previous messages may appropriately be renewed at this time. They are as follows:

*First.* A measure providing for an immediate constitutional convention.

The basis of representation for such convention should be the latest enumeration, and for this purpose the recent federal census may be utilized, if it is deemed advisable to do so. There are no legal or constitutional objections to such a course.

*Second.* An act to provide for compulsory voting.

This subject has not attracted the attention which it deserves, but it is hoped that public opinion may be aroused to its importance in the early future. It is a necessary measure to fittingly supplement the reform legislation recently enacted and designed to purify our elections. Some of the reasons for the inauguration of such a system were fully set forth in my annual message of 1889.

*Third.* A message creating a State commission which shall include supervisory powers over gas, telegraph, electric lighting, and telephone companies, similar to the jurisdiction conferred upon the Board of Railroad Commissioners over the railroads of the State.

The necessity for some such tribunal has been repeatedly demonstrated, but its establishment has thus far been defeated. Its creation, however, may be regarded as only a question of time.

*Fourth.* An amendment to the Weekly Payment Act of last year (chapter 388 of the Laws of 1890) applying its provisions to steam-surface railroads. Such railroads were exempted by that act, but it is believed that no adequate reasons exist for such discrimination.

It might be well enough to further amend the act by expressly declaring that its provisions were not intended to apply to officials of municipal corporations who receive stated salaries.

*Fifth.* An amendment to the "Corrupt Practices Act" of last year (chapter 94 of the Laws of 1890), extending and applying its provisions to the committees of every political party. The propriety of a further amendment compelling the filing by candidates of an itemized verified statement of their expenditures in obtaining nominations, is also suggested.

*Sixth.* A measure affording legal facilities whereby a successful candidate who can be proven to have obtained votes by bribery or other corrupt or illegal means on the part of himself, his agent or his political committees, may be ousted from office by proceedings in the nature of a "*quo warranto*" by the defeated candidate, and the latter given the office in his stead, provided it appears that neither the defeated candidate nor his committee has used any corrupt means to promote his election.

This would legitimately encourage prosecutions, as well as put a premium upon honest candidacy, and do more toward securing honest elections than all the mere ballot reform acts which can be devised. The system proposed is taken in its principal fea-

tures from the "Corrupt Practices Act" of Great Britain, which has accomplished more for the purification of elections in that country than all other reform measures and agencies combined. Its value consists, among other things, in rendering large expenditures on the part of wealthy candidates extremely dangerous and unprofitable, and in holding out to honest candidates who are defeated, an inducement to expose the corruption of their adversaries by awarding to such honest candidates the offices sought irrespective of the question of the amount or extent of the corruption shown. This reform would tend to insure absolutely clean elections.

It is difficult to comprehend why the Legislature should hesitate to adopt the most valuable portion of the English "Corrupt Practices Act," while readily enacting some of its minor and less essential provisions.

*Seventh.* An act providing for the compulsory investigation of fires.

The arguments and figures showing the desirability of such a measure were set forth at large in my annual message of 1889.

*Eighth.* An act abolishing the confirming power on the part of the Senate except where expressly authorized by the Constitution.

The abuses which have characterized the exercise of the confirming power during recent years were accurately recited, and the reasons for its abrogation concisely presented in my annual message of 1888. Subsequent events have only rendered more perspicuous the soundness of the views then expressed.

*Ninth.* An act to provide for a special labor commission to suggest measures in the interest of labor.

That it is the prerogative of the Legislature to foster the interests, lighten the burdens, and add to the dignity of labor, in so far as the same can be done properly and legitimately, will not admit of dispute. It is difficult, however, to accomplish much in that direction without painstaking examination, without patiently listening to the complaints and carefully studying the wants of



laboring men, a task for which the Legislature as a body is ill-adapted by reason especially of the brevity of the session, the haste with which legislative business is usually transacted, and the lack of opportunity to sufficiently deliberate upon the serious questions involved. It is believed that such a commission, composed in its majority of representative labor men and including some disinterested person skilled in the framing of statutes, who could hear the grievances and investigate the needs of employes, and intelligently prepare the necessary measures required in behalf of the laboring classes, would prevent the presentation of much imperfect and crude legislation and accomplish better results for the cause of labor as well as for that of good government.

*Tenth.* An act abolishing the State Board of Charities and State Board of Health, and vesting their respective powers in single officers, thereby concentrating responsibility and improving the public service.

*Eleventh.* A measure providing for the inauguration of a system of manual training in our public schools. This topic was fully discussed in my annual message of 1887.

*Twelfth.* A measure providing a comprehensive plan for the creation of a State park in the Adirondacks. The necessity and advantages of such legislation were fully set forth in a special message last year, to which the attention of the Legislature is respectfully directed.

#### FINANCES.

The State debt has been reduced during the past fiscal year, by the payment of \$100,000 Niagara reservation bonds, and \$1,710,550 canal debt.

On the thirtieth day of September, 1890, the total funded debt was \$4,964,304.87, classified as follows:

General fund (Indian annuities) .....	\$122,694 87
Canal debt .....	4,341,610 00
Niagara reservation bonds .....	500,000 00
	<hr/>
Aggregate sinking fund .....	\$4,964,304 87
	3,163,722 49
	<hr/>
Total debt unprovided for, but not yet due .....	\$1,800,582 38

The tax rate for the current fiscal year, is two and thirty-four one-hundredths mills ( $2\frac{34}{100}$ ), which on the present assessed valuation will yield \$8,619,748.17. The reduced tax rate is occasioned by the fact that by reason of Executive disapproval (after the adjournment of the Legislature in 1889), of various appropriations, amounting in the aggregate to over one million eight hundred thousand dollars (\$1,800,000), there was left a surplus of that amount in the treasury, which was utilized in 1890 in lessening the amount necessary to be raised for this fiscal year; and because of the further fact that the assessed valuation of taxable property had been increased by nearly one hundred million dollars since the previous year.

The amount received from notaries during the last fiscal year is the sum of \$32,652.50. There has been received from the "Pool Tax," so-called, the sum of \$22,371.25, and from the special tax on corporations the sum of \$1,158,978.41, and from the Collateral Inheritance tax the sum of \$1,117,637.70, and from the special tax on the organization of corporations the sum of \$220,719.94.

#### DANGEROUS FEDERAL LEGISLATION.

There is pending in the Federal Congress a measure popularly designated with great accuracy as the "Force Bill," which is designed to extend federal control over congressional elections.

The terms of this proposed law I need not describe to you; they are familiar to the general public, because they were widely discussed in the recent political campaign, and formed one of the principal issues in the election. By an overwhelming majority the people decided against the measure. In our own State this emphatic protest was recorded in a majority of 70,000 votes against the candidates who ostensibly were committed to the bill's support. Yet, in spite of this indignant expression of adverse popular opinion, the friends of the measure are still urging its enactment, and pressing legislative business in the United

States Senate is being ignored while, under spur of partisan goad, an effort is making to rush through this revolutionary measure.

In the defeat of that effort the State of New York and every other State in the Union has a vital interest. Ostensibly to promote pure elections, the measure in reality is an unworthy scheme to perpetuate partisan control. It is a dangerous step in the direction of centralized government. It is un-American and revolutionary. It is an unwarranted usurpation of the rights and privileges of States. It authorizes the employment of an army of federal officers and the expenditure of many millions of dollars. It practically annuls many State laws and places the determination of federal elections absolutely in the hands of partisan officers. The effect of its enactment and enforcement must inevitably be to infringe the sacred right of representation, to build up a powerful partisan machine dangerous at all times to the free expression of popular sentiment, to turn over the control of government to an oligarchy of office-holders, to excite conflict between State and federal authority, and to break down respect for law and reverence for our political institutions among the ignorant. In the South it would be the means of arousing race prejudices which would threaten the order and prosperity of those communities, and rekindle the dying embers of sectionalism.

Against legislation so hostile to the country's welfare, so subversive of its institutions, so foreboding to its peace and happiness, let this State, through the Legislature now assembled, vigorously assert its opposition. For a hundred years we have regulated our own congressional elections; is there any reason why we should not continue to regulate them? When defects have appeared in our election laws, whereby abuses prevailed, our Legislatures have corrected them, so that to-day we have an election law which men of all parties pronounce nearly perfect for securing the purity of the ballot. To a certain extent, the proposed federal legislation would destroy the safeguards of our

State law, and offer opportunities for the intimidation and debauchery of voters. In other States the same conditions prevail, so that the plea of pure elections put forward in behalf of the Force Bill is shown to be false, and the measure finds no genuine support save as a partisan device. Many partisan acts in our country's history have been passed with no less ardent professions of pure intent than those which are heard now from the advocates of this iniquitous and tyrannical measure.

I urge the Legislature, by resolution or otherwise as may seem best, to express so emphatically its condemnation of the proposed legislation that the united voice of New York's representatives in Congress may be secured to avert from the State and the country the evil effects of so unwise a law.

#### CONCLUSION.

I can not conclude my last annual message to the Legislature without cordially acknowledging the willing co-operation and assistance which I have received during all the years of my administration from my associates, the State officers. Their earnestness and ability have been conspicuous, and whatever success has accompanied the administration of the State government during the last six years is due in a large degree to their faithful devotion to the public interests.

DAVID B. HILL.

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#### RE-DESIGNATION OF JUDGE HAIGHT TO THE COURT OF APPEALS, SECOND DIVISION.

STATE OF NEW YORK.                    }  
EXECUTIVE CHAMBER.                }

WHEREAS, the term of office as Justice of the Supreme Court of the Honorable Albert Haight, during which he was designated

one of the Associate Judges of the Court of Appeals, Second Division, expired on the thirty-first day of December, 1890, and

WHEREAS, he having been again elected a Justice of the Supreme Court of the State of New York;

*Now, therefore,* under the authority vested in the Governor by the Constitution, I do hereby designate the said Honorable Albert Haight, Justice of the Supreme Court, to act as Associate Judge of the Court of Appeals, Second Division, in accordance with section six of article six of the Constitution of this State as

Given under my hand and the privy seal of the State, at  
[L. s.] the Capitol in the city of Albany, this first day of  
January, A. D. 1891.

DAVID B. HILL.

By the Governor:

T. S. WILLIAMS,

*Private Secretary.*

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ORDER EXTENDING TIME TO ANSWER CHARGES  
IN THE MATTER OF CONWAY.

STATE OF NEW YORK.

EXECUTIVE CHAMBER,

ALBANY, January 3, 1891. }

*In the matter of the charges preferred against Daniel E. Conway,  
County Clerk of Rensselaer County.*

Upon the application of Mr. R. A. Parmenter of counsel for the above named Daniel E. Conway for an extension of time in which to answer the charges preferred against said Daniel E. Conway, it is hereby ordered that the time to answer said charges

be and the same is hereby extended twenty days from and after the 6th day of January, 1891.

DAVID B. HILL,  
*Governor.*

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APPOINTMENT OF EXTRAORDINARY SPECIAL TERMS  
OF THE SUPREME COURT FOR THE FOURTH  
JUDICIAL DISTRICT.

STATE OF NEW YORK.

EXECUTIVE CHAMBER. }

It appearing to be desirable that certain Special Terms of the Supreme Court, in and for the Fourth Judicial District, should be held in addition to those heretofore appointed by the justices of said district, and it appearing that the public interest requires it;

*Now, therefore,* it is ordered that the following Extraordinary Special Terms of the Supreme Court of the State of New York, for the Fourth Judicial District, be held, to-wit:

At the court-house in the village of Plattsburgh, Clinton county, at ten o'clock in the forenoon of each second Tuesday in the months of January, March, April, May, July, August, September, October and November in the year 1891;

At the court-house in the village of Malone, Franklin county, at ten o'clock in the forenoon of the first Tuesday in the months of April and September in the year 1891; and,

At the court-house in the city of Schenectady, Schenectady county, at ten o'clock in the forenoon of each third Tuesday in the months of January, March, April, May, June, September, October and December in the year 1891; and,

It is further ordered that the Honorable S. Alonzo Kellogg, a Justice of the Supreme Court, hold such Special Terms of the Supreme Court as hereinbefore described; and,

It is further ordered that notice of the appointment of said

Special Terms as described herein be made by publication of this order once in the Albany *Daily Argus* newspaper.

Given under my hand and the privy seal of the State, at  
[L. s.] the Capitol in the city of Albany, this sixth day of  
January, A. D. 1891.

DAVID B. HILL.

By the Governor:

T. S. WILLIAMS,

*Private Secretary.*

## DESIGNATION OF JUDGES FOR THE SECOND DIVISION OF THE COURT OF APPEALS.

STATE OF NEW YORK.

EXECUTIVE CHAMBER. }

WHEREAS, the Court of Appeals, under and in pursuance of the amendment to section six of article six of the Constitution of this State, has certified to me that there exists such an accumulation of causes on the calendar of the Court of Appeals that the public interests require a more speedy disposition thereof;

*Now, therefore,* under the authority vested in the Governor by the Constitution, I hereby designate the following named Justices of the Supreme Court to act as Associate Judges, for the time being, of the Court of Appeals and to form a Second Division of said court, to-wit: Charles F. Brown, Alton B. Parker, Joseph Potter, Irving G. Vann, David L. Follett, George B. Bradley and Albert Haight.

Given under my hand and the privy seal of the State, at  
[L. s.] the Capitol in the city of Albany, this twenty-second day of January, A. D. 1891.

DAVID B. HILL.

By the Governor:

T. S. WILLIAMS,

*Private Secretary.*

# REVOCATION OF THE DESIGNATION OF ASSOCIATE JUSTICE BARTLETT.

STATE OF NEW YORK.

EXECUTIVE CHAMBER. }

In accordance with the statute in such case made and provided, the designation heretofore made of the Honorable Willard Bartlett, a Justice of the Supreme Court for the Second Judicial District, as Associate Justice of the General Term for the First Department of the Supreme Court, is hereby and at his own request revoked.

Given under my hand and the privy seal of the State, at [L. s.] the Capitol in the city of Albany, the twenty-sixth day of January, A. D. 1891.

DAVID B. HILL.

By the Governor:

T. S. WILLIAMS,

*Private Secretary.*

## MEMORANDUM FILED WITH SENATE BILL No. 79,— THE NEW YORK RAPID TRANSIT BILL. AP- PROVED.

STATE OF NEW YORK.

EXECUTIVE CHAMBER,

ALBANY, January 31, 1891. }

*Memorandum filed with Senate bill No. 79, entitled "An act to provide for rapid transit railways in cities of over one million inhabitants." Approved.*

The enactment of this bill is a cause for congratulation to the people of New York, not only because it seems to assure to that city the speedy acquirement of much-needed means of rapid transit, but because it also marks the triumph of the principle of Home Rule — so vital to the welfare of municipalities.



For years the people of New York have appealed to the Legislature for such legislation as would remove the obstacles to rapid transit, but influences hostile to the recognition of the Home Rule principle have until now prevented a favorable response to this appeal. There has been no question of the necessity for such legislation, there have been no radical or irreconcilable differences of opinion as to the nature or details of the desired relief, there has been practically no controversy over what should constitute the salient provisions of the desired law;—the only real contention has been over the appointment of the rapid transit commissioners. Ingenious devices have been resorted to whereby legislation might be secured at the sacrifice of the principle of Home Rule.

In the measure which was originally proposed by the majority in the Legislature a year ago the names of the commissioners were inserted,—the Legislature thereby usurping an executive function and denying to the city of New York the right which it should always have through its properly constituted officers to choose its own commissioners for duties of exclusively local concern.

It was subsequently proposed to give to the Governor and Legislature the joint authority to appoint the commissioners. This was an equal violation of the Home Rule principle, and it properly failed. Neither the Governor, nor the Legislature, nor both, should be invested with the power which our Constitution in its spirit has wisely conferred on local authorities.

These attempts to ignore a vital political principle cost New York rapid transit legislation last year, as they had before. This year, fortunately, the changed complexion of the Legislature resulting from the overwhelming popular verdict of last November has made promptly possible the much-desired legislation. In the bill now enacted the principle of Home Rule is definitely sustained. The right of the Mayor to appoint the commissioners, and the Legislature's recognition of his recently appointed com-

missioners are distinctly affirmed. Even the suggestion of depriving him of the power to fill vacancies in the commission, first insisted upon, has been abandoned. A wholesome and sound legislative precedent has been thoroughly established, after a long and needless controversy. This new law may subsequently be found to contain provisions of questionable propriety, but whatever corrections are deemed necessary by the commissioners will doubtless receive the ready consideration of the Legislature. The bill seems to be drawn with great care and with earnest regard for the city's interests.

DAVID B. HILL.

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CERTIFICATE OF THE APPOINTMENT OF GENERAL  
FARNSWORTH AS SPECIAL AGENT TO COLLECT  
WAR CLAIMS.

STATE OF NEW YORK.

EXECUTIVE CHAMBER. }

I hereby certify that pursuant to the provisions of an Act of Congress approved July 27th, 1861, entitled "An Act to indemnify the States for expenses incurred by them in defense of the United States," and pursuant to the provisions of a concurrent resolution of the Legislature of the State of New York passed March 30th, 1871, authorizing the Governor to appoint a special agent to collect claims due to the State of New York from the United States for expenditures made by the State for the suppression of the late Rebellion, and to the several subsequent Acts of the Legislature of the State relating to the same subject, I did on the 7th day of January, 1886, designate General John G. Farnsworth, late Adjutant-General, to be such special agent of the State of New York for the purpose of prosecuting such claims; and that by my direction, the Adjutant-General of the State did on that day issue to him a letter of authority, a certi-

fied copy of which is hereto annexed; and that since that time, the said John G. Farnsworth has acted as such agent in the collection and prosecution of such claims, and his acts while so engaged have been recognized by me and by the Adjutant-General of the State as the acts of the duly authorized agent of the State for that purpose, and have been recognized by the Legislature of the State in the annual appropriations made by it for the payment of services and expenses as such agent; and that all the acts which may be done by him while acting as such agent of the State of New York in the collection and prosecution of such claims pursuant to the authority hereinbefore specified, are entitled to full faith and credit as the acts of the duly authorized agent of the State; and that the said John G. Farnsworth was authorized as the agent of the State of New York to file in the Court of Claims of the United States the petition which was filed by him therein on February 7th, 1889, in the claim of the State of New York against The United States, Number 16,430 for the recovery of the sum of \$131,188.02 and interest, and is authorized to prosecute such claim in said court to final judgment.

Given under my hand and the privy seal of the State, at the Capitol in the city of Albany, this fourth day of  
[L. S.] February, in the year of our Lord one thousand eight hundred and ninety-one.

DAVID B. HILL.

By the Governor:

T. S. WILLIAMS,

*Private Secretary.*

VETO, ASSEMBLY BILL No. 30, TO EXTEND THE JURISDICTION OF THE COMMISSIONER OF HIGHWAYS OF VIRGIL, CORTLAND COUNTY

STATE OF NEW YORK.

EXECUTIVE CHAMBER,

ALBANY, February 9, 1891. }

*To the Assembly :*

Assembly bill No. 30, entitled "An act extending the time of the commissioner or commissioners of highways and other proper persons of the town of Virgil, county of Cortland, for six years from February sixteenth, eighteen hundred and ninety-one, for the purpose of settling, adjusting and procuring the assessment of damages, and for the opening, working and all other duties and requisite things necessary for the completion of a certain proposed highway in said town," is herewith returned without approval.

The title of this bill indicates its true character. It is special legislation intended to confer upon the authorities of a particular town certain privileges not permitted under the general laws of the State relating to the opening of highways. Those general laws already prescribe the time within which damages arising on the opening of a new highway are to be assessed, adjusted, and settled, but this bill does not amend the general law, but seeks to enlarge such time by a special enactment whereby the proceedings for the opening of a particular highway are permitted to retain vitality and remain undisposed of for a period of six years. This bill would furnish a precedent for similar special legislation pertaining to any highway in the State which might be in process of opening, where the local authorities for any reason might desire an extension of time.

If the general laws of the State relating to the opening of highways require amendment by enlarging the time within which the

proceedings should be closed, then such laws should be amended to that effect; but the proposed special legislation is objectionable and cannot consistently be approved.

DAVID B. HILL.

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VETO, ASSEMBLY BILL, NOT PRINTED, FOR THE  
CONSTRUCTION OF A BRIDGE IN JOHNSTOWN,  
FULTON COUNTY.

STATE OF NEW YORK.

EXECUTIVE CHAMBER,

ALBANY, February 9, 1891. }

*To the Assembly :*

Assembly bill, not printed, entitled "An act to allow the electors of the town of Johnstown to vote by ballot at their annual town meeting to raise money for the building of a bridge across Reservoir creek on Washington avenue in the village of Johnstown," is herewith returned without approval.

The objects sought to be accomplished by this special legislation can all be secured under the provisions of the existing laws, without the intervention of the Legislature. The Board of Supervisors of Fulton County, acting in conjunction with the local authorities of Johnstown and the electors of that town, can accomplish the results desired equally as well if not better than by a special act of the Legislature. The proposed legislation is objectionable because it is not really necessary.

DAVID B. HILL.

MESSAGE ANNOUNCING THE DEATH OF GENERAL  
SHERMAN.

STATE OF NEW YORK.

EXECUTIVE CHAMBER,

ALBANY, *February 16, 1891.* }*To the Legislature :*

It is my sad duty to announce to the Legislature the death of General William T. Sherman at his residence in New York city on Saturday last.

His distinguished patriotic services and pure life have endeared him to the hearts of his countrymen, who everywhere now deeply mourn his loss. In this hour of universal expression of a nation's sorrow and esteem it is proper that the Legislature of the State which in recent years has claimed him as a resident and in which he died, should manifest by appropriate action the people's grief at his death and the affection and respect with which they cherish his memory.

I have already directed that as a mark of respect for the distinguished dead the flags upon the Capitol and upon all the public buildings of the State, including the armories and arsenals of the National Guard, be displayed at half-staff until and including the day of the funeral, and I commend to your consideration such further action as in your judgment may fitly indicate the public sense of appreciation and loss.

DAVID B. HILL.

VETO, ASSEMBLY BILL No. 320, NOT PRINTED, TO  
LEGALIZE A CERTAIN ACT OF THE SUPERVISORS  
OF CATTARAUGUS COUNTY.

STATE OF NEW YORK.

EXECUTIVE CHAMBER,

ALBANY, February 17, 1891. }

*To the Assembly :*

Assembly bill No. 320, not printed, entitled " An act to legalize and confirm the act of the board of supervisors of the county of Cattaraugus, passed on the 26th day of November, 1890, to erect two towns out of the town of South Valley in said county," is herewith returned without approval.

It is not the province of the Legislature to divide a town. There is already a general act conferring such power upon boards of supervisors. What the Legislature should not do directly it should not do indirectly.

This is a special act legalizing and confirming the action of the board of supervisors of Cattaraugus county in the division of the town of South Valley. The legalization is general in its terms, no particular defect being specified which is desired to be cured. While the Legislature might with propriety in such cases interfere to cure some slight technical defect, not affecting the merits, it ought not to intervene to correct a wholesale departure from the statute under which towns are divided. The friends of this measure do not point out what particular defect is desired to be legalized, but on the contrary they contend that the statute has been fully and legally complied with. If their claim is well founded, then there is no necessity for this bill. The subject of a division of a town is peculiarly a matter of local jurisdiction, and the contest if any arises, either legal or otherwise, should be fought out at home rather than before the Legislature at Albany.

The opponents of the measure contend that in the proceedings by the board of supervisors to divide the town of South Valley there was a substantial failure to comply with some of the essential provisions of the statute and that this measure, although in form simply a legalizing act, is in effect virtually dividing the town by act of the Legislature. I am convinced that this is not a case where the Legislature should properly interfere. Whatever contest exists as to the division of the town of South Valley should be remitted to the board of supervisors of Cattaraugus county and to the courts, where the disposition of the matter properly belongs.

DAVID B. HILL.

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VETO, ASSEMBLY BILL No. 123, RELATING TO THE  
ESTATE OF ROGER McNAMARA IN MONTGOMERY  
COUNTY.

STATE OF NEW YORK.

EXECUTIVE CHAMBER,

ALBANY, *February 18, 1891.*

*To the Assembly :*

Assembly bill No. 123, entitled "An act relative to lands in the city of Amsterdam, county of Montgomery, devised in and by the last will and testament of Roger McNamara, deceased, to Margaret Gillins, for and during her natural life," is herewith returned without approval.

This is special legislation. There seems to be no good reason why the Legislature should pass a special act for this particular case. If no way is provided by existing statutes whereby proceedings for the desired sale can now be conducted, the proper remedy is by general, and not by special legislation.

DAVID B. HILL.



IN THE MATTER OF THE CHARGES AGAINST CON-  
WAY, COUNTY CLERK OF RENSSELAER COUNTY.  
APPOINTMENT OF A COMMISSIONER.

STATE OF NEW YORK.

EXECUTIVE CHAMBER. }

*In the matter of the charges preferred against Daniel E. Conway,  
County Clerk of the County of Rensselaer.*

Charges having been preferred against Daniel E. Conway, County Clerk of the County of Rensselaer, by Calvin B. Dunham, Supervisor of the town of Grafton, in said county, and a copy thereof having been served upon the said County Clerk with notice to show cause why he should not be removed from such office, and the said Conway having filed his answer to the charges preferred herein ;

I do hereby appoint Robert E. Deyo, Esq., of the city of New York, commissioner to take the testimony and the examination of witnesses as to the truth of said charges and to report the same to me, and also the material facts which he deems to be established by the evidence.

It is hereby further ordered that said examination before such commissioner proceed with all convenient speed.

Given under my hand and the privy seal of the State, at  
[L. s.] the Capitol in the city of Albany, this twenty-third day  
of February, A. D. 1891.

DAVID B. HILL.

By the Governor:

T. S. WILLIAMS,

*Private Secretary.*

APPOINTMENT OF AN EXTRAORDINARY CIRCUIT  
COURT AND SPECIAL TERM AT TROY.

STATE OF NEW YORK.

EXECUTIVE CHAMBER. }

It appearing to my satisfaction that the public interest requires it; therefore, in accordance with the statute in such case made and provided, I do hereby appoint an extraordinary Circuit Court and Special Term of the Supreme Court to be held at the courthouse in the city of Troy, in and for the county of Rensselaer, on Monday, the twenty-third day of March, 1891, at eleven o'clock in the forenoon of that day, and to continue so long as may be necessary for the disposal of the business that may be brought before it; and I do hereby designate the Honorable Loran L. Lewis, a Justice of the Supreme Court, to hold the said extraordinary Circuit Court and Special Term of the Supreme Court as herein described; and I do further direct that notice of such appointment be given by publication once in *The Argus*, a newspaper published at Albany.

Given under my hand and the privy seal of the State, at  
[L. s.] the Capitol in the city of Albany, this twenty-eighth  
day of February, in the year of our Lord one thousand  
eight hundred and ninety-one.

DAVID B. HILL.

By the Governor:

T. S. WILLIAMS,

*Private Secretary.*

MEMORANDUM FILED WITH ASSEMBLY BILL No. 53,  
TO CHANGE THE NAME OF THE UNITED LIFE  
AND ACCIDENT INSURANCE ASSOCIATION. — AP-  
PROVED.

STATE OF NEW YORK.

EXECUTIVE CHAMBER,

ALBANY, *March 3, 1891.* }

*Memorandum filed with Assembly bill No. 53, entitled "An act to change the name of the United Life and Accident Insurance Association." Approved.*

There is no general law which provides for the changing of the names of insurance corporations. There should be such a statute, and I cannot approve any more special bills of this character. I approve this bill in this instance for the reason that I am advised that there is now pending in the Legislature an act providing for the changing of the names of insurance corporations, which is likely to be passed. With that understanding, I have concluded to approve this act.

DAVID B. HILL.

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OPINION IN THE MATTER OF JOHN T. COLBERT,  
ACCOMPANYING A REFUSAL TO HONOR THE  
REQUISITION FOR HIS ARREST ISSUED BY  
MORGAN G. BULKELEY, OF CONNECTICUT.

STATE OF NEW YORK.

EXECUTIVE CHAMBER,

ALBANY, *March 5, 1891.* }

In this case I adhere to the same determination which I reached in the Fardon case and refuse the requisition upon the ground that Morgan G. Bulkeley, the individual who signs the

papers, is not the governor of Connecticut. The decision in the Fardon case was not reached hastily, but after careful deliberation, and subsequent reflection has only served to firm the correctness of my position. I decline to recognize a person as governor, who was neither elected as such by the people, nor has any legal or equitable title to the office and who is not recognized as governor by the highest legislative body of his own State. When the senate of Connecticut repudiates Mr. Bulkeley, declines to permit his messengers to have access to the senate chamber, refuses to receive his communications, which he attempts to foist upon it, and utterly ignores his nominations, and in every possible way rejects his pretensions, I cannot be expected, under such circumstances, to afford him a recognition in this State which he is unable to secure in his own State. I have the most convincing and satisfactory proof that Judge Morris not only received a large plurality, but an actual majority of the votes cast for governor at the recent election, upon the face of the returns, and has been declared duly elected by the senate. He is governor of the State *de jure*, having "duly qualified" by taking and filing the required oath of office, which is the only act to be performed by him as a condition precedent to his right to exercise the functions of the office. He is acting governor so far as he is permitted to do so. Mr. Bulkeley is a mere usurper, and as such has no claim to be considered a governor *de facto*. A few acts of mere usurpation, done without color of authority and under the circumstances conceded to exist in Connecticut, do not make an individual an official *de facto*. The judicial decisions upon the subject are all to this effect. In *People v. Albertson*, 8 How. Pr., 363, it was held that a claim under appointment of title to an office which by law is elective cannot constitute the claimant an officer *de facto*, and in *Conover's case*, 5 Abb. Pr., 73, *People v. Peabody*, 6 Abb. Pr., 228, and the *Mayor of New York v. Flagg*, 6 Abb. Pr., 296, it was held that where a public officer had been duly elected or appointed to an office and had done all

in his power toward assuming possession of the office, he was to be deemed in law to be rightfully in possession of such office and entitled to recognition as such. So it was held by the General Term, Fourth Department, in the case of *Cronin v. Gundy*, 16 Hun, 524, that there cannot be both an officer *de jure* and another *de facto* performing the duties of the office at the same time, citing *Boardman v. Halliday*, 10 Paige, 223, *People v. Peabody*, *supra*, and *Morgan v. Quackenbush*, 22 Barb., 72. This case was affirmed by the Court of Appeals in 97 N. Y., 271. From a careful examination of the legal authorities upon the question and from the opinions of able counsel whom I have consulted, I am advised and satisfied that it is my duty to decline all requisitions coming from Mr. Bulkeley under the present situation of affairs in Connecticut.

A mere intruder into an office whose acts have not been recognized as valid by the legislative or judicial departments of his own State, cannot complain if the Executives of other States refuse to countenance his usurpation.

When requisition papers are presented to the Executive he must judge of their authority, validity and sufficiency. If he rejects them for any reason he exercises a discretion which is not reviewable by any court. If there is a dispute as to the governorship of the State and more than one person claims the right in such State to exercise the executive functions, he is called upon to determine whom he will recognize. It is but recently that in the State of Nebraska there were three persons claiming to be entitled to recognition as governor of the State and two of them claimed at the same time to be actually in possession of the office. Had a requisition at that time been presented to me from one of the persons thus claiming the right to the office, it would have been my plain duty to have decided which claimant to the office I would recognize. And it is but a few years ago that in at least three of the southern States, to-wit: Louisiana, Florida and South Carolina, there were at the same time two persons

claiming to be lawfully entitled to the office of governor in each State, and claiming to be in possession of the office; and if, at such time, a requisition had been presented to the governor of this State from one of the persons claiming the title to the office of governor in either of those States, the Executive of this State would either have been compelled to refrain from acting at all or to have determined for himself the question whether the person who signed the requisition represented the lawful executive authority of the State from which it issued. The responsibility of the proper determination of such questions is one which is imposed upon me by the Constitution and laws of the land, which I am not disposed to evade, and which I could not, if I would, cast upon another. I would gladly honor a requisition for the surrender of a fugitive from justice coming from the lawful executive authority of Connecticut. If for any reason the lawful executive authority of that State is at present powerless to exercise its proper functions, it is a public misfortune which would, however, afford no justification to me should I give official recognition to one who unlawfully claims the right to exercise such authority.

While I have no sympathy with criminals fleeing from justice, neither have I any aid to give to the usurper of a public office. The injury which may result from the escape of a person charged with a crime is not to be compared with the great wrong which has been done to the people of Connecticut by the attempted denial of their constitutional right to elect their public officers.

DAVID B. HILL.

MESSAGE RECOMMENDING AN EXTENSION OF THE  
"CORRUPT PRACTICES" ACT TO MAKE PROOF OF  
FRAUD IN ELECTION TO OFFICE A GROUND FOR  
FORFEITURE.

STATE OF NEW YORK.

EXECUTIVE CHAMBER,

ALBANY, *March 9, 1891.* }

*To the Legislature:*

I congratulate the Legislature that with complete unanimity in the Assembly, and with but eight dissenting votes in the Senate, it has fitly supplemented the electoral reform legislation of last year by taking the initial step towards submitting to the judgment of the people a constitutional amendment transferring to the courts the determination of contested legislative elections. In my special message of a year ago, in which I called attention to the abuses that had followed the exercise of that privilege so long enjoyed by legislative bodies to be "the judge of the elections, returns and qualifications" of their own members, and in which, I believe, was contained the first official recommendation of a transfer of such jurisdiction to the courts, I expressed the hope that our own State might be the first to bring about this wholesome reform. Although not acted upon at that time, however, the suggestion which I then had the honor to make and which was repeated in my annual message of this year, has now received the warm indorsement of the Legislature, and the people whom we represent have the proud satisfaction of knowing that in the accomplishment of this much-needed and now quite generally approved constitutional reform their own State has been the conspicuous leader.

Fittingly, however, as the submission of this proposed consti-

tutional amendment will, if approved by the people, supplement the electoral legislation of last year, there are certain important particulars in which our electoral system still needs strengthening. One additional safeguard I suggested to your attention in a special message on April 21st last, urging an extension of the so-called "Corrupt Practices" Act whereby political committees and agents should be required to file statements of expenditures in the same way that candidates are now compelled to file them. That suggestion remains unacted upon. Another safeguard to pure elections, which I have recommended at various times in my annual messages and to which I now wish to give the emphasis of a special message, is the still further extension of the "Corrupt Practices" Act to authorize the bringing of *quo warranto* proceedings by any candidate for the ousting of the successful candidate, if it can be proved against the latter that either he or his political agents or committees have resorted to fraud or corruption to secure his election, and the giving of the office to the defeated candidate, provided it appears that neither he nor his committees have used corrupt means to promote his election. Such a provision was contained in the so-called Linson bill of two years ago, and although the Legislature has neglected to engraft it upon the statutes, there has not been, so far as I am aware, any serious opposition to the principle which it embodies. If it is not deemed advisable to make a defeated candidate the recipient of the office vacated by proof of fraud, it is suggested that provision be made for a new election. As I have said frequently before in my official communications, the enactment of this, or an essentially similar law, would encourage prosecutions and put a premium upon honest candidacy. The present law, to be sure, imposes severe penalties for fraud, and disfranchises, for a period of five years, persons convicted of bribery, and this, to a certain extent, discourages corruption, but juries will find a verdict in a civil action (such as is proposed), the effect of which will oust a man from his office for fraud or corruption, without sending him



to prison, where they would not convict him of a crime upon the same evidence. The accomplishment, therefore, of any practical good from the fuller description of criminal offenses and the imposition of severer penalties, requires such an encouragement to prosecutions as would be afforded by the extension of the law which I have urged. This feature of the English Corrupt Practices Act is regarded as having been conspicuously potent in the purification of elections in Great Britain.

By recent legislation we have reduced to a minimum the opportunities for men to sell their votes and we have stamped the law's disapproval upon the improper expenditure of money by candidates for office; shall we not go still further and compel the forfeiture of an office when the incumbent or his political agents can be proved to have employed illegal means to secure his election, irrespective of the size of his majority? No greater incentive to honest elections could the law present than that the proof of bribery should work a forfeiture of office. The Constitution of the State excludes bribers from the privilege of franchise; shall our laws admit them to the right to hold office? This is the defect and shame of our present laws, that while it may be proved that many of the votes received by a successful candidate have been purchased, the election is not void unless the number of purchased votes equals or exceeds the candidate's plurality over his competitors. The proposed amendment would but carry out more closely the spirit of the Constitution, that any corrupt act on the part of the candidate or his agents to secure an election should disqualify him from the right to hold the office, whether or not he has been convicted of the offense in a criminal court. The poor candidate would then be on a perfect equality before the law with the rich, and the honest candidate would have his rightful advantage over his dishonest competitor.

Without discussing further what should constitute the details of this proposed measure, I submit these suggestions to your consideration, trusting that they may receive your approval and be-

come part of our election laws. Under the English law, when fraud or corruption is proved, the election becomes void, and a new writ of election is issued, and so the process may go on until no dishonest practices in an election are proved. Whether that is advisable in this country, or whether the law should provide in case of the proof of fraud or corruption that judgment should be rendered in favor of the candidate receiving the next highest number of votes, and so on, I submit to your intelligent deliberation.

DAVID B. HILL.

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IN THE MATTER OF THE CHARGES AGAINST CONWAY, COUNTY CLERK OF RENSSELAER.—ORDER DIRECTING THE ATTORNEY-GENERAL TO PROCEED.

STATE OF NEW YORK.

EXECUTIVE CHAMBER. }

*In the matter of the charges against Daniel E. Conway, County Clerk of Rensselaer county.*

Charges having heretofore been duly preferred against Daniel E. Conway, County Clerk of Rensselaer county, and he having appeared in the proceeding through his counsel and filed an answer therein, and a commissioner having been heretofore duly appointed by me to take the testimony which may be offered for and against the said charges, and the hearing before the commissioner not having yet been commenced,

It is hereby further ordered that the Attorney-General of the State of New York conduct the inquiry and examination in the prosecution of the said charges, with the like effect as if he had

been so designated and directed in the original order appointing the said commissioner.

Given under my hand and the privy seal of the State, at  
[L. s.] the Capitol in the city of Albany, this tenth day of  
March, A. D. 1891.

DAVID B. HILL.

By the Governor:

T. S. WILLIAMS,

*Private Secretary.*

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POWER OF ATTORNEY TO GENERAL FARNSWORTH  
TO COLLECT FROM THE GENERAL GOVERN-  
MENT THE AMOUNT OF THE DIRECT WAR-TAX.

STATE OF NEW YORK.

EXECUTIVE CHAMBER. }

I hereby certify that the annexed statement of account of the State of New York with the United States, under the Act of Congress approved March 2, 1891, for the refunding of the direct tax imposed upon the State of New York and the taxable property therein by virtue of the Act of Congress approved August 5, 1861, is just, true and correct; that it contains a correct statement of all moneys paid by the State of New York to the United States on account of such tax and of all collections by set-off or otherwise made from the State of New York under said Act of Congress approved August 5, 1861, and the amendments thereto;

And I hereby appoint General John G. Farnsworth of Albany, New York, the attorney-in-fact of the Governor of the State of New York and of said State for the purposes hereinafter stated, and authorize and empower him to present such account to and prosecute the same before the Secretary of the Treasury of the United States and the proper accounting officers of the Treasury

Department, and to procure the allowance and payment thereof and to do any and all acts which the Governor of the State of New York, or said State, might do for the purpose of procuring the settlement, adjustment, allowance and payment thereof by the said Secretary or the said accounting officers.

In testimony whereof I have hereunto set my hand and af-  
 [L. S.] fixed the privy seal of the State, at the Capitol in the  
 city of Albany, this tenth day of March, A. D. 1891.

DAVID B. HILL.

By the Governor:

T. S. WILLIAMS,

*Private Secretary.*

[NOTE.—On March 16, 1891, the United States refunded the amount of the above-men-  
 tioned direct tax by a Treasury draft for \$2,213,330.83.]

MEMORANDUM FILED WITH ASSEMBLY BILL No.  
 488, AUTHORIZING THE BONDING OF UTICA  
 FOR RIVER IMPROVEMENTS. APPROVED.

STATE OF NEW YORK.

EXECUTIVE CHAMBER,

ALBANY, *March 20, 1891.* }

*Memorandum filed with Assembly bill No. 488, entitled "An act to authorize the city of Utica to borrow money by the issue of bonds, to provide for their redemption and to appoint commissioners for changing the channel of the Mohawk river between said city and the town of Deerfield in Oneida county." Approved.*

This bill authorizes the common council of Utica to change the channel of the Mohawk river between said city and the town of Deerfield, and to issue the bonds of said city to meet the expense thereof to an amount not exceeding the sum of one hundred and fifty thousand dollars.

The bill is not mandatory in its terms. It leaves everything to

the action of the local authorities. It authorizes the mayor to appoint commissioners, but it does not direct him to do so. It empowers the common council by a two-thirds vote to authorize the proposed improvement and to issue bonds therefor, but it does not compel that body to do so. It provides that the mayor in his discretion may approve the action of the common council and unless he does so the resolution of that body is of no effect. It provides that no bonds shall be issued and no indebtedness incurred (except the necessary expenses of the commissioners) unless it shall be made to appear affirmatively to the common council by the report of the commissioners that the whole improvement can be completed at a sum not exceeding one hundred and fifty thousand dollars.

The measure seems to have been carefully framed and no reasonable objection thereto is apparent. It does not violate, but expressly recognizes the principle of Home Rule, by conferring upon the local legislature of Utica and its chief executive officer the necessary authority to determine the whole question of the propriety of the proposed improvement. The principle of Home Rule does not require that every proposition for the bonding of a city should be submitted to a vote of the people. That would oftentimes be burdensome, vexatious and unwise. It is sufficient that the whole power and responsibility of the proposed undertaking are vested in and conferred upon the local authorities who represent the people. The bill is so carefully guarded that even a majority vote is not regarded as sufficient, but a two-thirds vote of the representatives of the people is required, together with the approval of the mayor. Hence there is no likelihood that any injustice can be done anybody.

If Utica wants the privilege of constructing this improvement in the manner proposed, it is difficult to discover any good reason why that city should be refused the opportunity.

It is not usual to submit such questions to a vote of the people, but they are ordinarily left to the determination of the common

council. The construction of the Hawk street viaduct in Albany, involving an expenditure of over one hundred and fifty thousand dollars, was left to the determination of the mayor alone and three commissioners appointed by him. (*See chap. 579 of the Laws of 1888.*)

The course pursued in this bill is especially proper in this instance, because here there does not appear to be a very formidable opposition to the measure. The mayor has not opposed it. The common council has not objected to it. The Senator and all the members of the Legislature from Oneida County have favored it. I am advised that the press of Utica, without distinction of party, has sustained it. Under these circumstances I do not feel called upon to insist that any different course should be pursued in reference to this proposed improvement than has been usual in other cities in like matters. It is true that a large number of taxpayers have filed with me objections to the bill. This is not surprising. Almost every public improvement that has ever been made in any city has encountered more or less opposition.

There may be some question as to the feasibility or propriety of the scheme contemplated by this bill, but that question was more properly addressed to the discretion of the Legislature. The bill passed with unanimity, and after a careful examination of the briefs and remonstrances submitted against it, I am constrained to regard it as my duty, under all the circumstances, to approve the measure.

DAVID B. HILL.

MEMORANDUM FILED WITH SENATE BILL No. 118,  
TO PROVIDE FOR POLICE MATRONS IN CITIES.  
APPROVED.

STATE OF NEW YORK.

EXECUTIVE CHAMBER,

ALBANY, March 20, 1891. }

*Memorandum filed with Senate bill No. 118, entitled "An act to amend chapter four hundred and twenty of the laws of eighteen hundred and eighty-eight, entitled 'An act to provide for police matrons in cities.'"* Approved.

This bill extends the present law so as to make it mandatory upon the authorities of all cities of over 25,000 inhabitants to provide for the appointment of police matrons and for the separate confinement of female prisoners. I hesitated to give my approval to a bill having a similar object last year upon the ground that the local authorities of cities should first be given sufficient opportunity to act voluntarily under the permissive provisions of the act of 1888. In the memorandum filed at that time I said: "I am disposed to concede that the local authorities of certain cities have not exercised their discretion in accordance with the spirit of the present law, but it seems to me wise that they should be given another year in which to make the needed changes on their own motion, and if after another year's experience a permissive law shall still prove futile, the argument in favor of a compulsory law will be much more forcible."

From correspondence which I have recently had with the mayors of the cities of the State I am convinced that the only way to secure the wholesome results aimed at in the present law is to make its provisions mandatory. Although in a few cities, including my own city of Elmira, police matrons have been voluntarily appointed and are giving general satisfaction, in most cities no

appropriations have been made for carrying out the provisions of the act. I am convinced, after reflection, that no question of Home Rule is really involved, for the proposed law is merely the application of a general principle to all municipal governments in cities of over 25,000 inhabitants. Although its enforcement will in some respects be an infringement upon local authority, this must necessarily be the case when a question of principle, not merely of policy, is involved. This bill is essentially an application of a principle, and I cheerfully give it my approval.

DAVID B. HILL.

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MESSAGE ANNOUNCING THE DEATH OF EX-GOV-  
ERNOR LUCIUS ROBINSON.

STATE OF NEW YORK.

EXECUTIVE CHAMBER,

ALBANY, *March 23, 1891.* }

*To the Legislature :*

The sad duty devolves upon me to announce to the Legislature the death of Lucius Robinson, who expired at his home in Elmira at noon to-day.

His four score years marked the limits of a life well spent. He was a man true to his convictions of right, faithful to the duties of citizenship, conscientious and able in administering the trusts committed to him by the people. He filled with credit to himself and satisfaction to the State offices of responsibility and honor. He was successively district attorney, member of assembly, comptroller, member of the Constitutional Commission of 1872, and Governor. As Executive of the State he was a loyal representative of honest administration and economical government, and his official acts made conspicuous the sturdy traits of his character and the keen quality of his intellect.

In recognition of his distinguished public services I have ordered



that the flags upon the public buildings be displayed at half-staff, and I recommend such further action by the Legislature as may be deemed appropriate in this hour of his death.

DAVID B. HILL.

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VETO, ASSEMBLY BILL No. 445, RELATING TO THE  
INCORPORATION OF RELIGIOUS SOCIETIES.

STATE OF NEW YORK.

EXECUTIVE CHAMBER,

ALBANY, *March 23, 1891.* }

*To the Assembly :*

Assembly bill No. 445, entitled "An act supplementary to chapter 60 of the laws of 1813, entitled 'An act to provide for the incorporation of religious societies,' passed April 5, 1813," is herewith returned without approval.

This bill purports to add to the general act of 1813 certain provisions relative to the proceeding to incorporate and to trustees, but applicable solely to churches in communion with the African Methodist Episcopal church. Such churches may now incorporate under the act of 1813. A comparison of the provisions of this bill with the present law permitting these churches to incorporate, discloses only a few changes, mostly immaterial. The only material changes contemplated would increase the power of the minister at the expense of the members of the congregation, and require the election of all instead of one-third of the trustees annually. The existing provisions of law proposed to be changed have worked well for a long number of years and I am unaware that any dissatisfaction with their operation is felt by any members of the African Methodist Episcopal churches. A good reason for these changes, which alone should impel them, is not apparent.

The bill is defective in form, confusing and ungrammatical in phraseology, and unnecessary.

DAVID B. HILL.

VETO, ASSEMBLY BILL No. 506, TO CHANGE THE NAME  
OF THE UNITED PRESBYTERIAN CHURCH OF  
NORTH HAMDEN.

STATE OF NEW YORK.

EXECUTIVE CHAMBER,

ALBANY, *March 23, 1891.* }

*To the Assembly :*

Assembly bill No. 506, entitled "An act changing the name of the United Presbyterian Church of North Hamden, New York," is herewith returned without approval.

This bill is unnecessary special legislation. If the "United Presbyterian Church of North Hamden, New York," is a corporation, chapter 322 of the laws of 1870 gives the Supreme Court ample power to change its name; and by chapter 323 of the laws of 1853, and chapter 245 of the laws of 1880, sections 2410-2418 of the Code of Civil Procedure, defining the procedure to change the names of individuals, are extended to religious corporations.

If it is only a voluntary unincorporated association of individuals for religious worship, they have as much power to make the desired change as they had to assume their present name. In either case this bill is unnecessary.

DAVID B. HILL.

VETO, SENATE BILL No. 141, RELATING TO THE NEW  
YORK BUILDING AND IMPROVEMENT COMPANY.

STATE OF NEW YORK.

EXECUTIVE CHAMBER,

ALBANY, *March 23, 1891.* }

*To the Senate :*

Senate bill No. 141, entitled "An act to amend chapter 598 of the laws of 1881, entitled 'An act to incorporate the New York

building and improvement company,'” is herewith returned without approval.

This bill is unnecessary. Its object is to permit the New York Building and Improvement Company to increase or diminish the amount of its capital stock. Chapter 264 of the laws of 1878 empowers this corporation to reduce the amount of its capital stock, while chapter 564 of the laws of 1890, which goes into effect May 1, 1891, will permit it to either increase or diminish the amount of its capital stock,

DAVID B. HILL. .

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VETO, SENATE BILL No. 330, TO INCORPORATE  
THE NEW YORK CONFERENCE OF THE AFRICAN  
METHODIST EPISCOPAL CHURCH.

STATE OF NEW YORK.

EXECUTIVE CHAMBER,

ALBANY, *March 23, 1891.* }

*To the Senate:*

Senate bill No. 330, entitled “An act to incorporate ‘the New York conference of the African Methodist Episcopal church,’” is herewith returned without approval.

It is difficult to conceive upon what the Legislature could base its judgment that the objects of this proposed corporation cannot be attained under general laws. Either chapter 110 of the laws of 1876 or chapter 319 of the laws of 1848 will permit the incorporation. Chapter 110 of the laws of 1876 is an act specially to provide for the incorporation of such bodies as the New York Conference of the African Methodist Episcopal Church.

DAVID B. HILL.

VETO, ASSEMBLY BILL No. 522, AUTHORIZING THE  
ONEIDA COUNTY SURROGATE TO PROCURE A  
NEW SEAL.

STATE OF NEW YORK.

EXECUTIVE CHAMBER,

ALBANY, *March 24, 1891.* }

*To the Assembly.*

Assembly bill No. 522, entitled "An act to authorize the surrogate of Oneida county to procure a new seal for said court," is herewith returned without approval.

This is local legislation and special in its character.

The bill authorizes the surrogate of Oneida county to procure a new seal for the Surrogate's Court of that county. Section thirty of the Code of Civil Procedure already provides a method for the procurement of new seals for county clerks, surrogates' courts, and certain other courts. The procedure there provided seems to be amply sufficient to cover the objects sought to be accomplished by this measure. If for any reason the Code is insufficient for that purpose, it should be amended so as to afford the relief desired, rather than that a special bill should be passed for a particular court in a particular county. There are sixty counties in the State, and it is not desirable to legislate for each one separately in a matter of this kind. The subject should be covered by general legislation.

DAVID B. HILL.

VETO, ASSEMBLY BILL, INTRODUCTORY No. 160, TO  
INCORPORATE THE FIRE DEPARTMENT OF  
FLATLANDS, KINGS COUNTY.

STATE OF NEW YORK.

EXECUTIVE CHAMBER,

ALBANY, *March 25, 1891.* }

*To the Assembly :*

Assembly bill, Introductory No. 160, entitled "An act to incorporate the fire department of the town of Flatlands, Kings county, New York," is herewith returned without approval.

There is already upon the statute books a law for the incorporation of fire departments in villages. There is also a law for the organization of fire companies in the towns of the State.

It is true there is no general law for the incorporation of fire departments in towns, because ordinarily there are no fire companies in towns, proper, as distinguished from villages. If any towns have become so populous that fire companies or fire departments are an actual necessity, such towns should be incorporated into villages or cities. The town of Flatlands is a town containing several thousand population and is thickly settled, and under the form of a town government it is endeavoring to exercise municipal powers through the aid of extensive special legislation.

There is no necessity for any further general laws upon the subject of fire companies or fire departments in towns generally, and there is no propriety in a special bill for this particular town of Flatlands.

I think it is a proper time to order a halt in the matter of special legislation for the country towns of Kings county. There has been a flood of it in the past and some of it has been mischievous if not actually dangerous. Town governments are not safe or proper repositories for the exercise of municipal powers. The truth is that nearly all the towns of Kings county should either

be incorporated into villages or cities or be annexed to the city of Brooklyn where they can be afforded all the facilities of police, sewer and fire protection which they require. The session laws of this great State should not be burdened with further undesirable special legislation applicable only to a few localities in the vicinity of the city of Brooklyn.

If these towns, including Flatlands, persist in refusing to adopt a form of village or city government applicable to their needs, they must content themselves with such general legislation as is suitable and sufficient for the great body of the country towns of the State.

DAVID B. HILL.

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VETO, ASSEMBLY BILL, INTRODUCTORY No. 51,  
GRANTING TO E. L. THOMAS A FRANCHISE FOR  
A FERRY ACROSS CONESUS LAKE.

STATE OF NEW YORK.

EXECUTIVE CHAMBER,

ALBANY, *March 25, 1891.* }

*To the Assembly :*

Assembly bill, Introductory No. 51, entitled "An act to authorize Edward L. Thomas to establish and maintain a ferry across Conesus Lake from Long Point on the west side of said lake to McPherson Point on the east side of the same," is herewith returned without approval.

The Revised Statutes provide a system for the regulation of ferries. (*See 2 R. S., Banks' 8th ed., p. 1406, title 2, section 1.*) Licenses for the keeping of ferries may be granted by the county courts of the respective counties, and no application to the Legislature for that privilege seems to be necessary.

The whole subject of ferriage is naturally and peculiarly a local matter to be regulated and controlled by some competent local authority, and if the provisions of the Revised Statutes above

cited are not deemed adequate to meet the requirements of any case they should be amended and made sufficiently broad and comprehensive to relieve the Legislature from the necessity of any special legislation. The valuable time of the Legislature ought not to be occupied with the passing of special bills for the establishment of ferries. Although the strict letter of the constitutional amendment of 1874 may not prohibit legislation of this character, yet the spirit of those amendments forbids it.

The Legislature has passed a few bills of this nature during recent years which have reluctantly been permitted to become laws, but the frequency of them renders the adoption of a different course advisable at this time.

There was never any good reason why the granting of ferry privileges should not be regulated by some proper general statute, and the aid of the Legislature in behalf of particular individuals should no longer be invoked.

DAVID B. HILL.

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VETO, ASSEMBLY BILL No. 185, GRANTING A FRANCHISE FOR A FERRY ON LAKE CHAMPLAIN TO H. G. BURLEIGH AND ANOTHER.

STATE OF NEW YORK.

EXECUTIVE CHAMBER,

ALBANY, *March 25, 1891.* }

*To the Assembly :*

Assembly bill No. 185, entitled "An act to authorize Henry G. Burleigh and Brackett W. Burleigh and their heirs or assigns to establish and maintain a steam ferry on Lake Champlain, in the town of Ticonderoga, Essex county, New York," is herewith returned without approval.

I decline to approve this measure for substantially the same reasons as those set forth in my veto of Assembly bill (Intro-

ductory No. 51) entitled "An act to authorize Edward L. Thomas to establish and maintain a ferry across Conesus Lake from Long Point on the west side of said lake to McPherson Point on the east side of the same," this day transmitted to the Assembly. The fact that the ferry proposed by this bill is across the waters of Lake Champlain and to another State, does not materially change the situation. The present statute authorizing the granting of ferry franchises should be made broad enough to include all cases which can be effected by the legislation of this State.

DAVID B. HILL.

VETO, ASSEMBLY BILL No. 264, FOR THE RELIEF OF  
CHAPPELL AND CURELL.

STATE OF NEW YORK.

EXECUTIVE CHAMBER,

ALBANY, *March 25, 1891.* }

*To the Assembly :*

Assembly bill No. 264, entitled "An act for the relief of Robert Stephenson Chappell and John Gibson Curell," is herewith returned without approval.

This bill is objectionable special legislation. The present law requires that applicants for admission to practice as attorneys and counselors-at-law shall be citizens of the United States. The proposed act would authorize the admission to these privileges of two Canadian British subjects. While special legislation of this character has sometimes been enacted, the increasing frequency of demands for it tends to nullify the provisions of the general law and should be checked. If the law governing admission to practice in the courts is not deemed sufficiently broad in its provisions, it should be amended — not evaded by special legislation for the relief of individuals.

DAVID B. HILL.



VETO, ASSEMBLY BILL No. 517, TO DETERMINE THE  
GENESEE AND ERIE AND, NIAGARA BOUNDARY  
LINE.

STATE OF NEW YORK.

EXECUTIVE CHAMBER,

ALBANY, *March 27, 1891.* }

*To the Assembly:*

Assembly bill No. 517, entitled "An act to authorize and require the State Engineer and Surveyor to locate and determine the boundary line between the county of Genesee and the counties of Erie and Niagara," is herewith returned without approval.

This bill requires the State Engineer and Surveyor to make a survey and to determine therefrom the boundary line between the counties of Genesee, Erie and Niagara.

The State Engineer and Surveyor reports to me that such boundary line is not clearly fixed by the present law and cannot be determined from a survey. The only possible remedy for the situation would appear to be a law providing for the establishment of the boundary line so that the location thereof can be determined from a survey.

DAVID B. HILL.

SUMMONS IN THE MATTER OF THE CHARGES  
AGAINST FRANK H. PECK, DISTRICT ATTORNEY  
OF JEFFERSON COUNTY.

STATE OF NEW YORK.

EXECUTIVE CHAMBER. }

*In the matter of the charges against Frank H. Peck, District Attorney of the County of Jefferson. Notice of charges and summons.*

TO FRANK H. PECK, *District Attorney of the County of Jefferson.*

You are hereby notified that charges of malversation and malfeasance in office have been preferred against you by J. M. Tilden, John D. Huntington and John C. Sterling, and a copy of said charges is herewith served upon you.

You are, therefore, required to show cause why you should not be removed from the office of District Attorney of the County of Jefferson, and to answer the said charges within eight days after service of this order and a copy of said charges upon you.

In witness whereof I have signed my name and affixed the  
[L. s.] privy seal of the State, at the Capitol in the city of  
Albany, this thirty-first day of March in the year of our  
Lord one thousand eight hundred and ninety-one.

DAVID B. HILL.

By the Governor:

T. S. WILLIAMS,

*Private Secretary.*

## VETO, ASSEMBLY BILL No. 612, TO AMEND THE COMMISSIONERS' MAP OF BROOKLYN.

STATE OF NEW YORK.

EXECUTIVE CHAMBER,

ALBANY, *March 31, 1891.* }*To the Assembly :*

Assembly bill No. 612, entitled "An act to amend the commissioners' map of the city of Brooklyn," is herewith returned without approval.

This bill is special legislation which I cannot approve. It authorizes the common council to alter the commissioners' map of the city of Brooklyn with reference to a certain street. If this power may properly be exercised in any instance, it should be so conferred upon the local authorities that it may be exercised in every instance of merit. The common council of Brooklyn, under the charter, can open streets. It can close, extend, widen and regulate them. It can grade, pave, regrade and repave them, but it cannot alter the lines of the commissioners' map. But such power is germane to the powers already vested in this body and it should properly be given to it. The charter should be so amended that the common council may deal with this and all similar cases, and any necessity for objectionable special legislation similar to this act, be forever done away with.

DAVID B. HILL.

VETO, SENATE BILL No. 55, MAKING THE OFFICE OF  
COUNTY CLERK OF CAYUGA COUNTY A SALARIED  
OFFICE.

STATE OF NEW YORK.

EXECUTIVE CHAMBER,

ALBANY, April 1, 1891. }

*To the Senate :*

Senate bill No. 55, entitled "An act to make the office of county clerk of Cayuga county a salaried office, and regulating the management of said office," is herewith returned without approval.

The principal object of this bill is to change the office of county clerk of Cayuga county from a fee to a salaried office.

There seems to be a popular demand for bills of this character. Last year similar bills were passed for each of the counties of Chautauqua, Ontario and Steuben. This year similar bills for the counties of Madison, Wayne and Erie have been passed and permitted to become laws without my signature. Last year a bill was passed changing the office of sheriff of New York county from a fee to a salaried office, and a similar bill became a law this year affecting the sheriff's office of Erie county. In addition to this bill there are also in my hands at this time three other bills applicable to other counties, changing certain county clerks' offices from fee to salaried offices. I am advised that a large number of similar bills are on the files of the Legislature awaiting consideration.

The increasing multiplicity of special bills of this character naturally leads to the suggestion of the advisability of one general law permitting the boards of supervisors of counties to determine for their respective counties, the question of the adoption of a salaried or a fee system for both of the offices of county clerk and sheriff.

The propriety of such a general law is apparent, and it is believed there are no constitutional or other valid objections to such

a course. Whether such offices should be under a salaried or fee system is particularly a local question, which may properly be determined by the local legislature of each county.

There are sixty counties in the State, and if the present flood of legislation of this character continues there are likely to be one hundred and twenty bills of this nature upon the statute books. Another year these numerous bills are likely to be supplanted by amendatory and possibly repealing bills, and the attention of the Legislature will inevitably be largely engrossed with the consideration of local bills of this kind.

The present hour is opportune for stopping further special and local legislation applicable only to particular counties, and for the enactment of a comprehensive general law upon this subject, remitting the whole matter to the determination of the boards of supervisors of the various counties of the State. Such a general law has already been introduced and is now pending in the Senate, and it is believed that its enactment will speedily follow.

In view of this proposed general law, this special act and all other similar acts now in my hands and pending in the Legislature will become wholly unnecessary.

While doubting the wisdom of changing the present fee system which generally prevails throughout the State, I am not disposed in this instance to insist upon my personal opinion in opposition to the sentiment of the Legislature, by preventing the new system from having a fair trial. In my judgment, the changes contemplated by this and similar bills may not prove as advantageous as they are expected to be, and there is danger that in the end the offices which are now self-supporting will ultimately become a burden upon the taxpayers; and while inclined to believe that the true remedy for existing abuses lies in the reduction of fees wherever they seem to be unreasonably large or extravagant, rather than in an entire change of system, yet I am willing that the experiment proposed by the Legislature and apparently desired by the people should be given a fair opportunity to demonstrate its

merits, provided it can be done without entailing a mass of unnecessary special legislation.

Until the proposed general law now awaiting action shall have been disposed of, I feel compelled to withhold my approval from this bill and bills of a similar character.

DAVID B. HILL.

VETO, SENATE BILL, INTRODUCTORY No. 454, RELATING TO RAILROAD MONEYS IN PERRY, WYOMING COUNTY.

STATE OF NEW YORK.

EXECUTIVE CHAMBER,

ALBANY, April 1, 1891. }

*To the Senate :*

Senate bill, Introductory No. 454, entitled "An act to authorize the railroad commissioners and the town board of the town of Perry, Wyoming county, to use certain funds in the hands of the railroad commissioners for the payment of town charges," is herewith returned without approval.

This bill proposes to allow the expenditure of the moneys coming into the hands of the railroad commissioners of the town of Perry over and above the amount required for the payment of interest upon certain railroad bonds of the town to be expended for general town purposes. It appears that such moneys were intended to be accumulated as a sinking fund to meet the principal of such bonds when due. The bill proposes no substitute for this method of meeting the principal of such bonds, and so far as appears from the bill the principal of such bonds must all be raised in the year it becomes due, or, more probably, more special legislation will be sought extending the time of payment of such principal or for raising the amount thereof by annual installments. If, however, these difficulties are not likely to arise and

this measure is desirable for the town of Perry, it is equally desirable for all towns similarly situated, and the situation should be met by a general law and not by special legislation.

DAVID B. HILL.

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VETO, SENATE BILL No. 90, MAKING AN APPROPRIATION FOR WORK ON THE CANAL WALL IN HERKIMER COUNTY.

STATE OF NEW YORK.

EXECUTIVE CHAMBER,

ALBANY, *April 6, 1891.* }

*To the Senate :*

Senate bill No. 90, entitled "An act authorizing the superintendent of public works to finish building a vertical wall on the berme bank of the Erie canal, in the county of Herkimer, and making appropriations therefor," is herewith returned without approval.

After such examination as I have been able to give this bill I am not satisfied that it is wholly in the public interest. There is much evidence that the work contemplated is intended primarily and principally for the benefit of private parties. Even if the wall already partially constructed was actually necessary there is grave doubt whether its further extension is desirable or essential so far as the interests of the State are concerned.

The bill met with considerable opposition in the Legislature as well as attracted much adverse criticism in the public press, and its merits not being fully conceded, it may be advisable to wait another year's developments before any further expense shall be authorized or incurred.

Substantially the same bill was disapproved by me in 1888, and I observe that this bill contains some of the same provisions to which I then objected. (*See Public Papers of 1888, p. 47.*)

It is doubtful whether a fair interpretation of the bill permits the Superintendent of Public Works to construct any less distance of wall than the full number of feet specified in the first section of the bill; and if so, such a provision is of questionable propriety.

For these reasons, as well as because the appropriation is not deemed expedient at this time, I feel constrained to withhold my approval from this measure.

DAVID B. HILL.

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VETO, ASSEMBLY BILL No. 497, TO AMEND A REPEALED SECTION OF THE REVISED STATUTES RELATING TO HIGHWAYS.

STATE OF NEW YORK.

EXECUTIVE CHAMBER,

ALBANY, April 6, 1891. }

*To the Assembly:*

Assembly bill No. 497, entitled "An act to amend subdivision two of section twenty four of article second of chapter sixteen of part first of the Revised Statutes, as amended by chapter 422 of the laws of 1886, relative to highway tax," is herewith returned without approval.

The difficulty with this bill is this: it seeks to amend a chapter of the Revised Statutes which was repealed by chapter 568 of the laws of 1890. Chapter 422 of the laws of 1886, which amended the same chapter of the Revised Statutes, was also repealed by the laws of 1890.

DAVID B. HILL.



IN THE MATTER OF THE SANITY OF CHARLES  
McELVANIE, UNDER SENTENCE. — APPOINT-  
MENT OF COMMISSIONERS.

STATE OF NEW YORK.

EXECUTIVE CHAMBER. }

I hereby appoint Charles F. MacDonald, M. D., of the city of New York, and Judson B. Andrews, M. D., of the city of Buffalo, to examine Charles McElvanie, now confined in Sing Sing prison under sentence of death, and to report their conclusion as to his present sanity and their opinion as to his sanity at the time of the commission of the act for which he was convicted, such report to be made to me in writing at their earliest convenience.

Given under my hand and the privy seal of the State, at  
[L. s.] the Capitol in the city of Albany, this seventh day of  
April, A. D. 1891.

DAVID B. HILL.

By the Governor:

T. S. WILLIAMS,

*Private Secretary.*

VETO, ASSEMBLY BILL No. 276, TO INCREASE SAL-  
ARY OF WATER COMMISSIONERS OF BUFFALO.

STATE OF NEW YORK.

EXECUTIVE CHAMBER, }

ALBANY, April 7, 1891. }

*To the Assembly:*

Assembly bill No. 276, entitled "An act to amend chapter 519 of the laws of 1870, entitled 'An act to revise the charter of the city of Buffalo,' and the acts amendatory thereof," is herewith returned without approval.

This bill increases the salary of the three water commissioners of the city of Buffalo from \$1,200 to \$2,500 each.

I am opposed to this increase being made at Albany, but I would not object to a bill authorizing and empowering the common council of the city of Buffalo to increase the salaries of such commissioners to an amount to be fixed by that body not exceeding the sum of \$2,500.

It is understood that the local authorities favor the proposed increase and desire this bill to become a law, but that fact does not cure the objection urged. The power to make the increase should be vested in the local authorities and they should assume the responsibility therefor and not the Legislature. A bill simply conferring such power would be cheerfully approved, but this bill cannot consistently be permitted to become a law.

DAVID B. HILL.

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## MESSAGE RELATING TO THE REFUNDED WAR TAX.

STATE OF NEW YORK.

EXECUTIVE CHAMBER,

ALBANY, April 10, 1891. }

*To the Legislature :*

There is now in the State treasury, subject to appropriation by the Legislature, the sum of \$2,213,330.86, which is the amount accredited to the State on account of the federal direct tax of August 5, 1861, and refunded in pursuance of the provisions of the act of Congress approved March 2, 1891.

It will be the duty of this Legislature, or of subsequent Legislatures, to provide by law for the disposition of this fund. Various suggestions have been made with reference thereto, none of which, however well supported, has seemed to command general popular approval. The disposition of so large a sum of money naturally provokes some contention, and at such a time as the present, when

the burdens of taxation rest heavily on our people, all proposals for expenditure are closely analyzed and carefully weighed. This critical temper of the people, and the Legislature, while extremely praiseworthy, may however prevent any legislation on the subject at this session of the Legislature, in which case the people will be deprived for a year of the benefits of the refunded money.

I would respectfully recommend to the Legislature a method of immediate disposition which in my opinion would satisfy all classes of people, affording a continuing relief from taxation, and still leave upwards of a million of dollars in the treasury, to be devoted to such special object as the Legislature may hereafter agree upon.

My suggestion in brief is that the money should be used to liquidate the outstanding bonded indebtedness of the State, most of which is now drawing interest at the rate of six per cent., and the remainder at two and a half per cent., and all of which is to a considerable extent an annual burden upon the people.

I am informed by the Comptroller that on July 1, next, he will be obliged to pay towards the reduction of the canal debt out of the canal debt sinking-fund the sum of \$1,645,250, together with interest amounting to \$49,357.50. If a sufficient portion of the direct tax money should be used in meeting this obligation the canal debt sinking-fund would remain intact at \$3,764,069.50, which would be not only sufficient to provide for the payment of all the remaining outstanding canal debt, but leave a balance to the State's credit of \$1,055,379.50. Such an application of part of the direct tax money moreover would make it unnecessary to levy the tax of one-eighth of a mill, as provided by chapter 50, laws of 1891, for interest and the sinking-fund, amounting to \$447,540, or to levy any additional tax hereafter for that purpose. There would consequently be a saving of at least \$559,540 to the people next year and the year following.

I am also informed by the Comptroller that there will be due on July 1 next \$100,000 of Niagara Reservation bonds, with interest

amounting to \$6,250, both of which sums are included in the supply bill now pending. The outstanding Niagara Reservation bonds on July 1 in addition will amount to \$400,000 now drawing interest at two and a half per cent. If the balance of the direct tax money were used for the redemption of these outstanding bonds and for the payment of the interest and the \$100,000 due July 1, not only could this year's supply bill be diminished by \$106,250, but the entire Niagara Reservation debt would be wiped out, and the annual appropriation for interest avoided.

The net result therefore of such an application of the direct tax moneys as I have suggested, and which I herewith recommend to your consideration, would be to place the State entirely out of debt and afford relief to the people to the extent of over a million dollars in taxation.

But more than this, such an operation would still leave in the canal debt sinking-fund, over and above all demands, a balance of \$1,055,379.50. This would consist mainly of securities, now well invested, which could be sold or transferred to other trust funds, and the proceeds used for such purposes as the Legislature might direct.

The application of any part of this money towards a reduction of the tax levy to a greater extent than is secured by doing away with the annual appropriations for interest and principal of the State debts may well be deemed objectionable, and the course here suggested avoids this criticism.

Such a disposition of the money as I have outlined is indorsed by the Comptroller, and I respectfully ask for it your serious consideration. It is good policy as a general rule for governments, as well as for individuals, to pay their interest-bearing debts when they are able, and when, as in this case, the payment of the debt relieves the people from a million dollars in taxation and places a million dollars surplus in the treasury, wise statesmanship should not be slow in adopting that policy.

DAVID B. HILL.

MEMORANDUM FILED WITH SENATE BILL, INTRODUCTORY No. 252, LEGALIZING CONTRACT OF WAYNE COUNTY AGRICULTURAL SOCIETY WITH FREDERICK BORCK, AND SENATE BILL No. 537, FOR PAYMENT OF THOMAS REYNOLDS BY TOWN OF GALEN, WAYNE COUNTY. APPROVED.

STATE OF NEW YORK.

EXECUTIVE CHAMBER,

ALBANY, April 10, 1891. }

*Memorandum filed with Senate bill, Introductory No. 252, entitled "An act to legalize and validate a certain contract made between the Wayne County Agricultural Society and Frederick Borck, and to authorize a conveyance according to the terms of said contract." Approved.*

This bill (and also Senate bill No. 537, entitled "An act to authorize the town of Galen, Wayne county, New York, to borrow money and issue bonds or certificates therefor, for the purpose of paying the claim of Thomas Reynolds against said town of Galen"), are conceded to be special legislation; but they are unusual and exceptional in their character, and for that reason and because of the apparent exigency which is shown to have arisen in regard to both bills, requiring their speedy enactment, I have concluded, not, however, without some reluctance, to approve the same.

There are instances where special legislation is absolutely essential, or at least excusable, and while such cases should not be encouraged or multiplied they must be tolerated at times where great hardship might result if relief should be wholly refused.

It is true that special legislation should be avoided wherever its avoidance is practicable and where general legislation will reasonably answer every proper purpose sought to be accomplished by it. It however must occasionally be permitted, and the peculiar

circumstances which render this and the other bill above mentioned so desirable present an exception to the salutary general rule forbidding the passage of special acts.

DAVID B. HILL.

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VETO, ASSEMBLY BILL No. 196, RELATING TO THE  
POLICE FUND OF GRAVESEND, KINGS COUNTY.

STATE OF NEW YORK.

EXECUTIVE CHAMBER,

ALBANY, *April 11, 1891.* }

*To the Assembly :*

Assembly bill No. 196, entitled "An act to amend chapter 445 of the laws of 1887, entitled 'An act for the preservation of the public peace, the protection of private property, maintenance of law and order and the licensing and regulating of public hacks, vehicles, venders, shows, concerts, and public amusements in the town of Gravesend, in the county of Kings,'" is herewith returned without approval.

This bill amends one of the numerous special acts relating to the town of Gravesend, and authorizes an increase in the amount of the moneys which may be annually expended for police purposes from \$15,000 to \$25,000; and it also proposes to transfer the custody of the police fund from the police commissioners to the town treasurer.

The first objection to this measure is that no adequate reason exists for this increase of expenditure. Nothing has recently occurred to justify the demand for such legislation augmenting the burdens upon the taxpayers. Neither is there any particular necessity or propriety in asking the Legislature to pass a bill simply for the purpose of changing the custody of the police funds from certain town officials to another official. The matter is not of enough consequence to warrant a bill for such a purpose.

The second objection is that the measure is a continuance of the vicious special legislation which has been inflicted upon this town by the Legislature for many years. I protest against the Legislature of the State of New York acting any longer as a sort of common council to Gravesend and the other country towns of Kings county. These towns decline to incorporate as villages or cities, but insist upon exercising municipal powers by means of all kinds of special legislation obtained for them at Albany. The whole framework of their various town governments consists of divers special acts giving to them exclusively municipal powers and privileges denied to the other towns of the State. This state of affairs should no longer exist.

It is unnecessary to reiterate my views upon this subject further, as they were somewhat fully expressed in my veto of the bill to establish a fire department for the town of Flatlands, transmitted to the Legislature on March 24th last. An adherence to the sentiments then deliberately expressed renders the approval of this bill impossible.

DAVID B. HILL.

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VETO, SENATE BILL No. 119, TO INCREASE THE POLICE FORCE OF FLATBUSH, KINGS COUNTY.

STATE OF NEW YORK.

EXECUTIVE CHAMBER,

ALBANY, *April 13, 1891.* }

*To the Senate :*

Senate bill No. 119, entitled " An act to amend chapter 556 of the laws of 1888, entitled ' An act to provide for a police commission in the town of Flatbush, Kings county, and to establish a police force therein,' " is herewith returned without approval.

This bill is a special act amending a previous special act providing for a police commission for the town of Flatbush.

The purposes of the bill are to authorize an increase in the number of policemen now permitted to be employed and to increase the salaries of certain police officials.

The bill is objectionable special legislation.

It is not necessary to inquire whether the powers sought to be conferred upon the police commission are desirable in themselves. It is sufficient to know that the bill recognizes the present non-descript species of municipal government now applicable to the town of Flatbush and proposes to continue and enlarge the same. Towns should be governed by general legislation applicable to all the towns in the State. When towns become so populous that they have outgrown the simple form of town government applicable to all towns, then they should be incorporated as villages, and when villages have become so large that they require more extensive municipal powers and privileges than are needed by villages generally, then they should be incorporated as cities. These are correct principles of legislation and should be rigidly enforced. If it can be demonstrated that towns generally require police, fire, sewer, water and lighting departments, then a general act should be provided for such a purpose, but not otherwise. Every time the town of Flatbush wants an additional policeman or to pay an additional salary or to exercise any other municipal power, it should not be compelled to seek a special legislative act.

My views upon this subject have been so repeatedly expressed that it is unnecessary to restate them. I cannot consistently approve this measure.

DAVID B. HILL.



VETO, SENATE BILL, NOT PRINTED, FOR THE RELIEF  
OF THE HIGHLAND AND MODENA TURNPIKE  
COMPANY.

STATE OF NEW YORK.

EXECUTIVE CHAMBER,        }  
ALBANY, April 14, 1891. }

*To the Senate :*

Senate bill, not printed, entitled " An act for the relief of the Highland and Modena Turnpike Road Company," is herewith returned without approval.

This is a special act relating to the toll which may be charged by a particular turnpike company to persons residing within one mile of the company's toll gate. The bill is objectionable because there is a general law regulating the subject. If a change in this particular is desired, it should be effected by amendment to the general law and not by special legislation.

DAVID B. HILL.

MEMORANDUM FILED WITH SENATE BILL No. 184,  
REDUCING THE RATE OF INTEREST EXACTED  
BY U. S. DEPOSIT FUND COMMISSIONERS. AP-  
PROVED.

STATE OF NEW YORK.

EXECUTIVE CHAMBER,        }  
ALBANY, April 14, 1891. }

*Memorandum filed with Senate bill No. 184, entitled " An act to reduce and fix the rate of interest on bonds and mortgages held by the commissioners of the United States deposit fund in the several counties of the State and to amend title fourteen of chapter nine of part one of the Revised Statutes, entitled ' Of the United States*

*deposit fund,' and the rate of interest the said commissioners shall pay to the treasurer."* *Approved.*

This act proposes to reduce the rate of interest to be hereafter collected by the commissioners of the United States deposit fund on the real estate mortgages held by such commissioners in this State. The reduction is from six to five per cent. Over one million six hundred thousand dollars have been loaned by such commissioners on farming lands in this State for which mortgages are now held by them, and the reduction of interest effected by this bill affords a partial and timely relief to the agricultural communities especially interested.

This reduction is believed to be in accord with a growing public sentiment which seems to desire a lower rate of interest upon money, and which may tend to pave the way for further general legislation upon the subject.

DAVID B. HILL.

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MEMORANDUM FILED WITH SENATE BILL No. 403,  
MAKING AN APPROPRIATION FOR WORK ON  
THE STATE CAPITOL.

STATE OF NEW YORK

EXECUTIVE CHAMBER,

ALBANY, April 16, 1891. }

*Memorandum filed with Senate bill No. 403, entitled "An act making an appropriation for continuing work upon the Capitol, and appointing commissioners to supervise the plans thereof and the work thereon," which, not having been returned to the house in which it originated within ten days, became a law pursuant to article IV, section 9, of the Constitution.*

This act creates a commission to "assist" Commissioner Perry in the further construction of the Capitol. It is well understood that the Senate insisted upon a commission as a condition of mak-

ing any appropriation, and that the Assembly did not deem it wise to antagonize the Senate upon that point.

- My views upon the subject of a commission in the construction of the Capitol have been repeatedly expressed and are well known. I am opposed to a commission in such a manner, whether it is partisan or non-partisan. I believe that a great mechanical work like the construction of the Capitol should be entrusted to the sole supervision and control of a competent architect and builder, of approved integrity and fitness, such as Commissioner Perry is conceded to be.

A commission is none the less objectionable whether it is composed exclusively of political friends or opponents. It is purely a question of principle or propriety which is involved. My objection is not to the *personnel* of the commission, but to any commission at all. But the two houses of the Legislature being politically divided, and the Senate being disposed to persist in the attitude which it has maintained for several years past in favor of a commission, and the necessity of the continuance of the work upon the Capitol being pressing, I have concluded, under all these circumstances, to waive my individual convictions upon this subject and to permit the bill to become a law without my signature.

DAVID B. HILL.

VETO, SENATE BILL No. 368, RELATING TO COMMISSIONERS OF HIGHWAYS IN NEW UTRECHT, KINGS COUNTY.

STATE OF NEW YORK.

EXECUTIVE CHAMBER,

ALBANY, April 17, 1891. }

*To the Senate :*

Senate bill No. 368, entitled "An act relative to the powers and duties of the commissioners of highways of the town of New

Utrecht, and to improve the method of repairing roads and bridges in said town," is herewith returned without approval.

This special bill, among other things, transfers the powers and duties of the commissioners of highways of the town of New Utrecht to a body known as a "Board of Improvement" of said town.

This is special legislation, and cannot consistently be approved for the same reasons particularly set forth in my recent vetoes of bills relating to the towns of Flatbush and Gravesend, to which the attention of the Legislature is again respectfully invited.

DAVID B. HILL.

VEETO, SENATE BILL No. 86, FOR A CULVERT UNDER  
THE CANAL AT UTICA.

STATE OF NEW YORK.

EXECUTIVE CHAMBER, }  
ALBANY, April 20, 1891. }

*To the Senate :*

Senate bill No. 86, entitled "An act to authorize the laying of a culvert under the Erie canal in the city of Utica, and making an appropriation therefor," is herewith returned without approval.

While the title of this bill shows that it is a permissive bill, yet its provisions are in fact mandatory.

The title simply "authorizes" certain work to be done, but section one expressly "directs" the Superintendent of Public Works what he shall do.

This bill is objectionable in that particular.

Whether the work ought or ought not to be done at the expense of the State is a matter peculiarly within the jurisdiction of the Superintendent of Public Works, who can thoroughly investigate the matter and determine the question far better than can the Legislature.

It is singular that the Legislature persists in passing bills of this character, which leave no discretion in the official having charge of the canals, but absolutely direct him to spend the moneys which they appropriate without regard to his own opinion as to the necessity or propriety of the expenditure.

It may also be suggested as a somewhat peculiar circumstance that those who at the present time are the most loudly clamoring for a partisan investigation of the canals and for a reduction of canal expenditures, are the most zealous in obtaining mandatory appropriations for public works along the canal for their own localities.

DAVID B. HILL.

VETO, SENATE BILL No. 428, AMENDING THE CHARTER OF OLEAN.

STATE OF NEW YORK.

EXECUTIVE CHAMBER,

ALBANY, April 20, 1891. }

*To the Senate :*

Senate bill No. 428, entitled "An act to amend chapter 110 of the Laws of 1882, entitled 'An act to amend and consolidate the several acts relating to the village of Olean,'" is herewith returned without approval.

My objections to this bill are two:

1. The title is defective in that it incorrectly quotes the title of the act purported to be amended.
2. This bill proposes to add two new sections to title 2 of the act sought to be amended, which at present consists of twenty-seven sections. Instead of stating that they should be numbered sections 28 and 29, it provides that they should be known as sections 31 and 32 respectively, thus leaving a confusing gap in the seriatim numbering of the sections.

Good legislation requires that bills should be so drafted as to avoid confusion.

An attempt was made last Friday to recall this bill that those defects might be corrected, but the Senate refused to pass the necessary resolution. As this is the last day that I have for consideration of the measure and the Legislature has failed to recall it for correction, I am compelled to withhold my approval of the bill.

DAVID B. HILL.

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VETO, SENATE BILL No. 392, FOR THE RELIEF OF THE  
NIAGARA STREET RAILROAD COMPANY.

STATE OF NEW YORK.

EXECUTIVE CHAMBER,

ALBANY, *April 20, 1891.* }

*To the Senate :*

Senate bill No. 392, entitled " An act for the relief of the Niagara Street Railroad Company," is herewith returned without approval.

This is a special bill for the relief of a particular street railroad company. It authorizes the Niagara River Street Railroad Company to change its route from certain streets in the village of Niagara Falls to certain other streets in said village, and to amend the charter of said company accordingly, and to relieve the company from any penalty or forfeiture occasioned by its failure to construct its railroad as provided by its original charter.

This is conceded to be special legislation, and is clearly objectionable. It is the settled policy of the State to require street railroad companies to be incorporated under general laws, and not by special acts of the Legislature. This policy would virtually be defeated, or rendered valueless, if a special act is permitted to be passed every time any company desires to change its route from

one street in a village or city to another street. The general law should be amended by providing for proper cases where changes of route are desirable or necessary. Applications of this kind are becoming so frequent that it is essential that a general rule in reference to bills of this nature should be proclaimed and adhered to.

The spirit of the Constitution forbids the enactment of legislation of this character.

The Board of Railroad Commissioners, to which this bill has been referred, reports that the bill ought not to become a law.

DAVID B. HILL.

VETO, ASSEMBLY BILL, NOT PRINTED, RELATING TO  
PURCHASE BY THE FEDERAL GOVERNMENT OF  
LANDS IN QUEENS COUNTY.

STATE OF NEW YORK.

EXECUTIVE CHAMBER,

ALBANY, April 20, 1891. }

*To the Assembly :*

Assembly bill not printed, entitled "An Act giving the consent of the State of New York to the purchase by the United States of certain lands in the county of Queens," is herewith returned without approval.

It is sought by this bill to give the consent of the State of New York to the purchase by the Federal Government of such lands as may be required for fortifications for the defense of the eastern entrance to New York harbor near Sand's Point and Hewlett's Point in Queens county. The bill is to take effect when the title of such lands shall have been acquired by the United States, and plats and descriptions thereof shall have been filed in the office of the Secretary of State.

The bill is imperfectly drawn, and omits several important provisions which have uniformly been regarded as necessary in bills

of this character, for the protection of the public, the enforcement of the laws of the State, and the preservation of its sovereignty.

There is no limitation upon the area of territory which may be so purchased.

There is no restriction of the use which may be made of the lands by the Federal Government.

There is no provision that the jurisdiction of the United States shall cease, and that the State shall resume exclusive jurisdiction thereof if the lands are not used for the purposes for which jurisdiction is granted.

There is no reservation of concurrent jurisdiction by the State for the service of civil or criminal process upon persons within the territory ceded.

The retention of such jurisdiction by the State is of the highest importance, and has always heretofore been so regarded by the Legislature. Without it, the lands ceded would become a safe refuge for law breakers who had committed offenses against the laws of the State, and who would there be beyond the reach of ordinary criminal process.

It will be observed that by the provisions of the Federal Constitution (Art. 1, sec. 8, par. 16), if the consent of the State is unreservedly given to the purchase of lands by the United States, then Congress will thereafter have exclusive legislative power over such places.

Too great care cannot, therefore, be exercised in granting these legislative consents and all the conditions necessary for the protection of the State and the due execution of its laws should be inserted in the grant.

The object of the bill is a commendable one, and I regret that I cannot approve of it in its present form; but it seems to have been drawn in utter disregard of all legislative precedents upon the subject, and if enacted into a law, would be contrary to the established policy of the State.

DAVID B. HILL.



MEMORANDUM FILED WITH SENATE BILL NO. 217,  
AMENDING THE LAW TAXING LEGACIES AND  
COLLATERAL INHERITANCES. APPROVED.

STATE OF NEW YORK.

EXECUTIVE CHAMBER,

ALBANY, April 20, 1891. }

*Memorandum filed with Senate bill No. 217, entitled "An act to amend sections one and twenty-three of chapter 483 of the laws of 1885, as amended by chapter 713 of the laws of 1887, entitled 'An act to tax gifts, legacies and collateral inheritances in certain cases.'"* Approved.

The legislation which is incorporated in this bill is in pursuance of recommendations which I had the honor to make to the Legislature in my annual message of last year. I said then:

"It is respectfully suggested as worthy of the consideration of the Legislature, whether a satisfactory solution of the problem of taxing personal property may not be found in a graduated probate and succession tax upon the personal property of decedents, developing into a complete system the theory of the collateral inheritance tax. Already most estates of decedents are carefully appraised by disinterested parties through the machinery of our surrogates' courts. Without going into details, it seems possible to devise a system requiring all estates of decedents over a certain valuation to be administered in a surrogate's court, at least so far as to obtain an appraisal of the personal property thereof, and after allowing reasonable exemptions to the immediate next of kin, a percentage tax may be imposed upon the remainder, reasonably graduated by an increasing percentage as the relationship of those who are to receive is more remote, and as the valuation of the estate is greater."

And again in my annual message of this year in repeating this recommendation, I said:

"The theory of such a graduated percentage tax seems fair and just, especially in view of the fact that personal property, under existing methods, nearly entirely escapes taxation during the life of its owner. A similar system is in operation in England and I am advised that it works satisfactorily, and the propriety of its adoption here is suggested for your consideration."

This act carries out the suggestions therein made and, it is estimated, will yield a considerable revenue to the State.

There is one apparent defect in the bill, however, in that it seems to exempt all devises of real property which are collateral inheritances from the operations of the collateral inheritance tax. The original collateral inheritance law, so-called, of which this act is an amendment, did not contain this exemption. I am informed by some of the friends of the measure that such an exemption was not intended by the Legislature. If it was an oversight it should be corrected by subsequent legislation. The deadlock now existing in the Senate makes it impossible to have the bill recalled from the Executive for amendment, and rather than endanger the enactment of what in other respects is an excellent measure, I have affixed my signature to the bill.

DAVID B. HILL.

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VETO, ASSEMBLY BILL No. 1090, RELATING TO  
STREET IMPROVEMENTS IN TONAWANDA, ERIE  
COUNTY.

STATE OF NEW YORK.

EXECUTIVE CHAMBER,

ALBANY, April 21, 1891. }

*To the Assembly :*

Assembly bill No. 1090, entitled "An act authorizing the village of Tonawanda, Erie county, to take lands necessary, and to lay out and improve, or alter and improve public parks, grounds, streets, lanes, alleys and places therein," is herewith returned without approval.

Since the constitutional amendments of 1874, the Legislature has been forbidden to pass any local bill incorporating a village. Villages must now be incorporated by being organized under the provisions of the general village act.

After a village has once been organized under the general act, the legislature has no constitutional power to amend its charter or enlarge its corporate powers. Neither can the Legislature properly pass a special act giving to that village increased corporate powers and privileges, because such a bill would be a violation of the spirit, even if not of the strict letter of the Constitution. The Legislature cannot, or at least ought not, to do indirectly what it cannot do directly. If the Legislature, while expressly forbidden to grant new village charters or to amend existing ones (incorporated under general law), can nevertheless lawfully pass distinct special acts conferring upon particular villages additional powers, then the provisions of the Constitution are successfully evaded and are powerless and useless to remedy the very evils which were sought to be remedied by the constitutional amendments of 1874.

This bill is obnoxious to the criticisms above suggested. The village of Tonawanda was incorporated under the general act of 1870. It now desires certain powers for the improvement of its public streets, additional to or different from the powers conferred under the general laws, and this bill contains the desired provisions.

The relief sought is meritorious, but it must be secured by an amendment to the general village act and not by a special act of the Legislature.

Even if not clearly unconstitutional, it is certainly impracticable and unwise to attempt to give to every village in the State incorporated since 1870, a special bill conferring new and peculiar powers and authorizing different methods of procedure than those granted and allowed under the general act, whenever any village imagines that it requires something different from the general law.

It is with great regret that I feel constrained to refuse to permit this bill to become a law.

DAVID B. HILL.

VETO, ASSEMBLY BILL No. 274, PROVIDING FOR  
ELECTRIC LIGHT COMMISSIONERS IN WEST  
TROY.

STATE OF NEW YORK.

EXECUTIVE CHAMBER,

ALBANY, April 21, 1891. }

*To the Assembly :*

Assembly bill No. 274, entitled "An act to provide a board of electric light commissioners in and for the village of West Troy," is herewith returned without approval.

This bill, among other things, provides for the election of five officers of the village of West Troy, to be known as the "Board of Electric Light Commissioners."

It declares that such commissioners shall be elected by ballot, but it restricts the right to vote to those electors who are "taxable inhabitants" of the village. In other words, the bill establishes a property qualification for the electors who are to vote for these particular officials. This restriction violates section one of article two of the Constitution, which guarantees to every male citizen of twenty-one years of age a right to vote for all officers who are elective by the people.

The action of the Senate in refusing to transact any legitimate business until a resolution for a partisan investigation of the canals shall have been adopted or acted upon, prevents the recalling of the bill for amendment, and hence I am compelled to veto it.

DAVID B. HILL.

VETO, ASSEMBLY BILL No. 673, FOR RELIEF OF THE  
WEST SIDE RAILWAY COMPANY AT BUFFALO.

STATE OF NEW YORK.

EXECUTIVE CHAMBER,

ALBANY, April 21, 1891 }

*To the Assembly :*

Assembly bill No. 673, entitled "An act for the relief of the West Side Street Railway Company of Buffalo, N. Y.," is herewith returned without approval.

This is a special bill relieving a particular street railway company from certain obligations required to be performed under its charter.

Street railway companies are not now incorporated under special acts of the Legislature, but under general laws, and if it is proper in any case that a company should be relieved from any obligation which it has assumed in its charter, the methods for obtaining such relief should be provided for in the general law. The charter of street railway companies should neither be amended nor granted by special acts.

DAVID B. HILL.

VETO, ASSEMBLY BILL No. 1144, FOR REMOVAL OF  
HUMAN REMAINS FROM THE SCRIBA BURIAL  
GROUND, OSWEGO COUNTY.

STATE OF NEW YORK.

EXECUTIVE CHAMBER,

ALBANY, April 21, 1891. }

*To the Assembly :*

Assembly bill No. 1144, entitled "An act to authorize the removal and reinterment of the human remains buried in the old

Burt cemetery or burying ground in the town of Scriba, Oswego county," is herewith returned without approval.

It is difficult to discover on what theory this bill can be sustained. The cemetery which it is proposed to remove or destroy, or from which human remains are to be taken, does not appear to belong to the town of Scriba, but is conceded to be the property of private citizens.

It may well be doubted whether either the Legislature or the town has any right arbitrarily to enter upon such cemetery grounds and remove anything therefrom. If it can be done at all, it might be in the exercise of police powers and upon the theory that a nuisance is maintained; but even in that case it may properly be contended that the property cannot lawfully be disturbed except after due notice to and an opportunity to be heard on the part of the owners.

There is nothing appearing upon the face of this bill from which it can be claimed that it is determined or adjudicated in the bill itself that a nuisance in fact exists. And even if a nuisance were admitted to exist, no special act of the Legislature is required to remove it, as towns have been given authority to "change, abate or remove" nuisances. (*See subdivision 7, section 24, of chapter 564 of the Laws of 1890.*)

It is to be feared that the bill would complicate rather than facilitate the relief which is really desired, and the safest course is not to permit it to encumber the statute books.

DAVID B. HILL.

VETO, SENATE BILL No. 163, TO INCREASE SALARIES OF CERTAIN NOTARIAL CLERKS.

STATE OF NEW YORK.

EXECUTIVE CHAMBER,

ALBANY, *April 22, 1891.* }

*To the Senate :*

Senate bill No. 163, entitled "An act to amend chapter 230 of the laws of 1886, entitled 'An act to amend chapter 254 of the laws of 1879, entitled "An act to amend chapter 87 of the laws of 1875, entitled "An act providing for the appointment of additional notaries public,""' as amended by chapter 516 of the laws of 1887," is herewith returned without approval.

This bill increases the salaries of certain notarial clerks in the clerks' offices of New York and other counties, and provides for the appointment of such clerks in certain additional counties.

After a careful examination of its merits I have concluded that the bill is not in the public interest and I cannot consistently approve it.

DAVID B. HILL.

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VETO, ASSEMBLY BILL No. 900, FOR THE RELIEF OF THE THIRTY-FOURTH ST. FERRY AND ELEVENTH AVE. RAILROAD COMPANY, NEW YORK CITY.

STATE OF NEW YORK.

EXECUTIVE CHAMBER,

ALBANY, *April 23, 1891.* }

*To the Assembly :*

Assembly bill No. 900, entitled "An act for the relief of the Thirty-fourth street ferry and Eleventh avenue railroad company," is herewith returned without approval.





This bill is defective in form, even if not in substance.

It omits to disclose —

1. The nature of the claim;
2. The date when it accrued;
3. The grounds upon which jurisdiction is invoked or upon which liability is to be predicated.

These matters should all appear upon the face of bills of this character.

DAVID B. HILL.

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VETO, ASSEMBLY BILL No. 886, GIVING THE BOARD  
OF CLAIMS JURISDICTION IN THE CASE OF  
DAVID T. SMITH.

STATE OF NEW YORK.

EXECUTIVE CHAMBER,

ALBANY, *April 27, 1891.* }

*To the Assembly :*

Assembly bill No. 886, entitled "An act conferring jurisdiction upon the state board of claims to hear, audit and determine the claim of David T. Smith against the state and to make an award therefor," is herewith returned without approval.

This bill seeks to authorize the Board of Claims to hear, audit and determine the "claim" of David T. Smith against the State for injuries received in an assault upon him by an insane convict in Auburn state prison. From an examination of the bill, it does not appear that this "claim," if proved, would constitute a cause of action against a private person for which any relief would be granted by our courts. I believe that in cases of this kind the Legislature should not attempt to make exceptions to the general rules for the granting of relief which govern our courts.

DAVID B. HILL.

VETO, ASSEMBLY BILL No. 740, GIVING THE BOARD  
OF CLAIMS JURISDICTION IN THE CASE OF MAT-  
THEW J. MYRES.

STATE OF NEW YORK.

EXECUTIVE CHAMBER,

ALBANY, *April 27, 1891.* }

*To the Assembly :*

Assembly bill No. 740, entitled "An act enabling the board of claims to hear, audit and determine the claims of Matthew J. Myres against the State of New York for services rendered by him for the State in the year 1888," is herewith returned without approval.

I respectfully refer the Legislature to my Public Papers of 1890, p. 115, where are set forth my reasons for disapproving a bill which purported to authorize the Board of Claims to hear this claim. As this bill is as objectionable as the other was, I cannot consistently approve it.

DAVID B. HILL.

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VETO, ASSEMBLY BILL No. 105, GIVING THE BOARD  
OF CLAIMS JURISDICTION IN THE CASE OF PE-  
TER R. FINGAR.

STATE OF NEW YORK.

EXECUTIVE CHAMBER,

ALBANY, *April 27, 1891.* }

*To the Assembly :*

Assembly bill No. 105, entitled "An act to authorize the board of claims to hear, audit and determine the claim or claims of Peter R. Fingar against the State and to make an award therein," is herewith returned without approval.

There is nothing appearing on the face of this bill to show the precise time when this claim accrued. From its nature, and from papers submitted regarding it, the claim evidently must have accrued during the war of the Rebellion. The passage of this bill, therefore, would apparently afford no relief to the claimant, inasmuch as the claim seems to be barred by the limitation prescribed in the Constitution. (*See sec. 14, art. 7, of the Constitution.*) The bill cannot properly be regarded as an adoption or approval or other legal recognition of the claim itself, so as to take it out of the constitutional provision above cited. If the bill would bear that construction, it is a recognition of a very stale claim which it is not the true policy of the State to revive.

DAVID B. HILL.

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VETO, ASSEMBLY BILL No. 1086, RELATING TO THE  
PERCENTAGES PAYABLE BY CERTAIN STREET  
RAILWAYS.

STATE OF NEW YORK.

EXECUTIVE CHAMBER,                    }  
ALBANY, April 27, 1891.                }

*To the Assembly:*

Assembly bill No. 1086, entitled "An act in relation to percentages paid by certain street surface railways," is herewith returned without approval.

A bill substantially similar to this one, or at least seeking the same relief, has been before me once or twice before and has each time failed to receive my approval. I discover no reason why I should change my opinion of its merits.

Without being an amendment to the Cantor act, it virtually repeals, modifies or nullifies the provisions of that act so far as certain street railway companies are concerned.

It is obnoxious as being undesirable special legislation.

While it is undoubtedly true that the public interests would be promoted by some needed general modifications of the Cantor act, yet I am not prepared to say that the relief sought in this measure could ever be safely granted.

The local authorities or some of them are opposed to the bill and have filed with me a brief in opposition to the same, and I cannot consistently pursue any different course in reference to this measure than I have pursued in the past in regard to similar measures.

I do not think the bill is in the public interest and it, therefore, ought not to become a law.

DAVID B. HILL.

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VE TO, ASSEMBLY BILL No. 1027, FOR INSPECTION OF  
STEAM VESSELS ON ONEIDA, ONONDAGA AND  
SKANEATELES LAKES.

STATE OF NEW YORK.

EXECUTIVE CHAMBER,

ALBANY, April 27, 1891. }

*To the Assembly :*

Assembly bill No. 1027, entitled "An act in relation to the inspection and operation of steam or naphtha vessels on Oneida, Onondaga and Skaneateles lakes," is herewith returned without approval.

The purposes of this bill are indicated in its title.

It is proposed to establish for three certain lakes a board of commissioners of navigation to be appointed by the Governor, to have charge of the inspection of all steam and naphtha vessels conveying passengers for hire on either of said lakes.

The provisions of the bill are very elaborate and its general purposes are doubtless meritorious, but the objection thereto is that there ought not to be a special bill containing a peculiar system of inspection for three lakes only.

There are too many lakes in the State of New York to permit a separate board of commissioners for every three of them, having different jurisdictions, different powers, and pursuing different systems or methods.

There should be one complete and comprehensive statute applicable to all the interior lakes of the State, and not a special statute for each particular locality.

I declined to approve a similar bill which was passed in 1887, and subsequent reflection has confirmed my opinion that such a course was eminently proper.

DAVID B. HILL.

VETO, ASSEMBLY BILL No. 960, TO INCREASE PENSIONS OF POLICE CAPTAINS, NEW YORK CITY.

STATE OF NEW YORK.

EXECUTIVE CHAMBER,

ALBANY, April 27, 1891. }

*To the Assembly:*

Assembly bill No. 960, entitled "An act to further amend section 307 of chapter 410 of the laws of 1882, entitled 'An act to consolidate into one act and to declare the special and local laws affecting public interests in the city of New York,' as amended by chapter 364 of the laws of 1885, and chapter 575 of the laws of 1888, relating to a pension fund for the police department of said city, and as further amended by chapter 531 of the laws of 1890," is herewith returned without approval.

The object of this bill is to increase the pensions to six persons, late captains of the New York police force, and is intended solely for their benefit. The local authorities strenuously oppose the bill as one "without merit or justice." I am inclined to believe that the bill would furnish a pernicious precedent for further retroactive legislation in the same direction, and it is safer that it should not become a law.

DAVID B. HILL.

VETO, ASSEMBLY BILL No. 1397, RELATING TO THE  
POOR OF JEFFERSON COUNTY.

STATE OF NEW YORK.

EXECUTIVE CHAMBER,

ALBANY, April 27, 1891. }

*To the Assembly :*

Assembly bill No. 1397, entitled "An act to amend chapter 24 of the laws of 1888, entitled 'An act to amend chapter 817 of the laws of 1873, entitled "An act to provide for the support of the poor of Jefferson county,"'" is herewith returned without approval.

The bill is defective in form in that its section 1 declares that "section eight of the laws of 1888 \* \* \* is hereby amended so as to read as follows," omitting mention therein of the number of the chapter of the laws of that year which it proposed to amend.

The dead-lock in the Senate prevents the recall of the bill for correction ; and as this is my last day for its consideration, I am compelled to veto it.

DAVID B. HILL.

VETO, ASSEMBLY BILL No. 764, RELATING TO THE  
INCORPORATION OF SOCIETIES OR CLUBS.

STATE OF NEW YORK.

EXECUTIVE CHAMBER,

ALBANY, April 27, 1891. }

*To the Assembly :*

Assembly bill No. 764, entitled "An act to amend chapter 267 of the laws of 1875, entitled 'An act for the incorporation of societies or clubs for certain lawful purposes,'" is herewith returned without approval.

The amendment proposed by this bill simply increases the maximum limitation of the amount of property which may be held by corporations organized under chapter 267 of the laws of 1875 from \$500,000 to \$1,000,000, and the annual income thereof from \$50,000 to \$75,000. Chapter 553 of the laws of 1890 allows corporations such as are formed under the act proposed to be amended to hold property not exceeding \$3,000,000 in value and \$250,000 in annual income. This bill is, therefore, apparently unnecessary.

DAVID B. HILL.

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VETO, ASSEMBLY BILL No. 315, MAKING AN APPROPRIATION FOR THE REPAIRING OF GLEN CREEK, VILLAGE OF WATKINS.

STATE OF NEW YORK.

EXECUTIVE CHAMBER,

ALBANY, April 27, 1891. }

*To the Assembly :*

Assembly bill No. 315, entitled "An act to provide for repairing and reconstructing the banks and channel of Glen creek in the village of Watkins and making an appropriation therefor" is herewith returned without approval.

This bill appropriates the modest sum of ten thousand dollars for the purpose of repairing and otherwise improving the channel of Glen creek in the village of Watkins.

It is claimed that because many years ago the channel of this creek was changed for the benefit of the canal, the State has in some manner become liable for the continued repairment or improvement of the creek. The Member and Senator who procured the bill to be passed, are understood to vouch for its honesty, but the liability of the State does not seem to be very clear, however, and at this time when it is apparent that partisan

clamor is endeavoring, for political purposes, to attach **suspicion** to every liberal canal appropriation made by the Legislature, it is preferable to avoid **public criticism** by refusing every appropriation the merits of which are in the least degree doubtful. Some injustice may possibly be done by such a course, but those who have been instrumental in fomenting the clamor cannot reasonably object if their own measures are subjected at this time to the most rigid scrutiny.

Further delay in the granting of this appropriation may throw more light upon its merits, and be productive of other good results.

DAVID B. HILL.

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VETO, ASSEMBLY BILL No. 1137, TO LEGALIZE A  
SPECIAL ELECTION IN CLIFTON SPRINGS, ON-  
TARIO COUNTY.

STATE OF NEW YORK.

EXECUTIVE CHAMBER,

ALBANY, April 28, 1891. }

*To the Assembly :*

Assembly bill No. 1137, entitled "An act to legalize the special election of village officers, held in the village of Clifton Springs, in the county of Ontario, on the ninth day of September, eighteen hundred and ninety," is herewith returned without approval.

This bill is objectionable upon two grounds.

1. It is unconstitutional. The title of the bill expresses the single object of legalizing a special village election held Sept. 9, 1890, which is accomplished by section 2 of the bill. But section 1 of the bill proposes an entirely different and wholly disconnected object, to-wit : the legalization of the acts of certain officers of the village during a period of nearly six months before such special election. This being a local bill should conform to sec. 16, art. III of the Constitution, which provides that all private



or local bills shall have but one subject, and that shall be expressed in the title.

2. The proposed legalization of all the acts of the village officers is too broad. The legalization should be limited to such acts as would be void but for the circumstances specified. There is danger that the bill might, if approved, legalize acts of these officers which are invalid for other reasons.

DAVID B. HILL.

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VETO, ASSEMBLY BILL No. 1074, RELATING TO THE  
ST. REGIS INDIANS.

STATE OF NEW YORK.

EXECUTIVE CHAMBER,

ALBANY, April 28, 1891. }

*To the Assembly :*

Assembly bill No. 1074, entitled "An act to amend chapter 554 of the laws of 1889, entitled 'An act to prohibit the St. Regis Indians, residing in the Dominion of Canada, from trespassing and settling upon that portion of the reservation of the St. Regis Indians, residing in this State,'" is herewith returned without approval.

This bill, among other things, provides that a person may be convicted of an offense and sentenced to thirty days' imprisonment in the county jail, without bail or right of appeal, and without an opportunity to offer evidence in his defense.

The Constitution (sec. 6, art. I) provides that no person shall be deprived of life, liberty or property without due process of law. Due process of law requires that the accused shall have "his day in court."

The bill is crudely drawn; and while its object may be meritorious, the method of its attainment is of doubtful constitutionality.

DAVID B. HILL.

VETO, ASSEMBLY BILL No. 1274, RELATING TO LANDS  
SOLD FOR TAXES IN ONEIDA COUNTY.

STATE OF NEW YORK.

EXECUTIVE CHAMBER,

ALBANY, *April 28, 1891.* }*To the Assembly :*

Assembly bill No. 1274, entitled "An act to authorize and require the treasurer of Oneida county to redeem certain lands in said county, sold by the Comptroller at the tax sale in December, 1890, to authorize and require the said Comptroller to cancel certain certificates of sale and issue new ones in lieu thereof to said treasurer and to settle with said treasurer concerning the said lands so sold, and to authorize the board of supervisors of said county to assign the certificates of sale therefor to, and levy the amounts due thereon upon, the cities and towns respectively interested therein," is herewith returned without approval.

This bill seems to be imperfect and unintelligible in its general features and cannot be approved. Most of the remedies attempted to be provided for under the bill can be afforded under existing laws. The title of the bill itself is inconsistent. It purports to be an act to authorize and require the treasurer of Oneida county to redeem certain lands in said county sold by the Comptroller at the tax sale in December, 1890, to authorize and require the said Comptroller to cancel certain certificates of sale and issue new ones in lieu thereof to said treasurer. The remedies to redeem and to cancel are utterly inconsistent. There is no need of special authority to redeem from the sale. That right is absolute under existing law for two years after the sale and if the certificates were cancelled, then there could be no redemption, and *vice versa*. Section one authorizes application by the county treasurer to the Comptroller to cancel the certificates of sale of lands sold by the Comptroller at the State tax sale in December, 1890, to "individ-

uals, firms and corporations" without any reason or ground specified and directs that the Comptroller shall issue new certificates to the treasurer of Oneida county in lieu thereof.

Section two of the bill provides that after the cancellation has been made by "said county treasurer," the Comptroller is required to state an account for the taxes for which the lands were sold against the treasurer of Oneida county. The reference to the cancellation made by the county treasurer is clearly error, as the cancellations referred to in section one are to be made by the Comptroller and not by the county treasurer.

It is provided in section two, also, that in the account to be stated by the Comptroller against the county treasurer, the county of Oneida shall be credited with the accrued interest on the taxes for which the lands were sold. There does not appear any good reason for this. The accrued interest is fairly due the State and if the provisions of the act were to be carried out for the benefit of the county, the interest upon the taxes should be paid to the State by the county.

The bill seems to be of doubtful propriety, but if such a measure is necessary it ought to be couched in such terms that it can be clearly understood and executed.

DAVID B. HILL.

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VETO, ASSEMBLY BILL No. 471, GIVING THE BOARD  
OF CLAIMS JURISDICTION IN THE CASE OF JOSEPH  
MILLIETE.

STATE OF NEW YORK.

EXECUTIVE CHAMBER,

ALBANY, April 28, 1891. }

*To the Assembly :*

Assembly bill No. 471, entitled "An act to authorize the board of claims to hear, audit and determine the claim of Joseph Mil-

liete, against the State, for arrears of pay as captain of company C, first United States lancers volunteers, and as captain of company I, ninth New York cavalry," is herewith returned without approval.

It is not apparent from the bill itself just when this claim accrued, but from its nature it probably accrued during the war of the Rebellion, and is, therefore, similar to Assembly bill No. 105, which was returned disapproved to the Assembly on the 27th instant. I respectfully refer the Legislature to my veto message transmitted with that bill, as the reasons therein set forth apply with equal force to this claim.

The express provision in this bill exempting the claim from any limitation prescribed by any law or statute now in force in this State does not affect the operation of the constitutional prohibition. (*See sec. 14, art. VII of the Constitution.*)

DAVID B. HILL.

VETO, ASSEMBLY BILL No. 698, TO GRANT CERTAIN  
PRIVILEGES TO THE UNION MISSION CHAPEL  
ASSOCIATION OF BROOKLYN.

STATE OF NEW YORK.

EXECUTIVE CHAMBER,

ALBANY, April 28, 1891. }

*To the Assembly :*

Assembly bill No. 698, entitled "An act to authorize the trustees of the Union Mission Chapel Association of Brooklyn, eastern district, to accept legacies and donations for the relief of the poor, and to execute trusts in relation thereto, and for the amendment of its charter," is herewith returned without approval.

It does not appear from the bill itself, nor from anything which has been submitted concerning it, whether the Union Mission Chapel Association of Brooklyn is or is not a corporation. The

bill proposes to amend the charter of the association, but there is no reference to where, how or in what manner it may have been incorporated. It is a special bill conferring peculiar privileges and powers and is objectionable in many respects. It contains special exemptions from taxation and some of its provisions are wholly unnecessary and should not be enacted into law.

DAVID B. HILL.

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VETO, SENATE BILL No. 132, TO INCORPORATE THE  
VILLAGE OF SYLVAN BEACH, ONEIDA COUNTY.

STATE OF NEW YORK.

EXECUTIVE CHAMBER,

ALBANY, *April 28, 1891.* }

*To the Senate :*

Senate bill No. 132, entitled "An act supplementary to and amendatory of chapter 308 of the laws of 1887, entitled 'An act to provide police regulations for certain territory in the town of Vienna, in the county of Oneida,' as amended by chapter 194 of the laws of 1888," is herewith returned without approval.

This is a special act incorporating the village of Sylvan Beach, and is, therefore, unconstitutional. Sec. 18 of art. III of the Constitution forbids the Legislature to pass a special or local bill incorporating a village.

DAVID B. HILL.

VETO, SENATE BILL No. 564, AUTHORIZING THE  
ROME, WATERTOWN AND OGDENSBURG R. R.  
CO. TO PURCHASE BRIDGE STOCK.

STATE OF NEW YORK.

EXECUTIVE CHAMBER,

ALBANY, *April 29, 1891.* }

*To the Senate :*

Senate bill No. 564, entitled "An act to authorize the Rome, Watertown and Ogdensburg railroad company to purchase stock of a bridge company or companies," is herewith returned without approval.

This bill is badly drawn and must be regarded as defective. Immediately after the enacting clause it contains a long and unnecessary preamble and recites matters of which the Legislature has no knowledge.

The practice of incorporating preambles in statutes was condemned many years ago and has been practically abandoned. It has been tolerated only in a few rare instances, involving exceptional circumstances, where a recital seemed absolutely essential to a correct interpretation of the statute. No such circumstances exist here.

The act is a special act affording peculiar relief to a particular railroad corporation and should at least be reasonably correct in form, even if objectionable in other features.

DAVID B. HILL.

VETO, ASSEMBLY BILL No. 1245, TO AMEND THE  
LAW TO PREVENT EXTORTION BY RAILROAD  
COMPANIES.

STATE OF NEW YORK.

EXECUTIVE CHAMBER,

ALBANY, April 29, 1891. }

*To the Assembly:*

Assembly bill No. 1245, entitled "An act to amend section one of chapter 185 of the laws of 1857, as amended by chapter 415 of the laws of 1886, entitled 'An act to prevent extortion by railroad companies,'" is herewith returned without approval.

The apparent object of this bill is to change the present law, which provides that a railroad company charging more than the legal fare is liable to a penalty of fifty dollars, recoverable by the party overcharged for his own benefit, so that the party may not bring his action except in the name of the people and with the consent of the Attorney-General.

The enactment of this measure would greatly weaken the efficacy of the statute in preventing charges of excessive fare. The Board of Railroad Commissioners recommend the disapproval of the bill; and as no good reason is believed to exist why the change should be made, I must decline to give it my approval.

The bill itself is very defective in form, cumbrous in expression and involved in meaning. The last sentence of section one of the bill expressly states that the so-called miscellaneous provisions of the general corporation law and the railroad law shall not affect those laws; and as these provisions are of extreme importance to those chapters, no doubt of their application to them should be created.

DAVID B. HILL.

VETO, ASSEMBLY BILL No. 467, TO INCORPORATE  
THE NEW YORK AND BROOKLYN TUNNEL COM-  
PANY.

STATE OF NEW YORK.

EXECUTIVE CHAMBER,

ALBANY, April 29, 1891. }

*To the Assembly :*

Assembly bill No. 467, entitled "An act to incorporate the New York and Brooklyn tunnel company," is herewith returned without approval.

No brief has been submitted by any one either for or against this bill. The local authorities of New York or Brooklyn have neither of them filed any protest against it. But notwithstanding this situation, I am not convinced after a careful examination of the measure that it is a proper one to be enacted into a law. It is difficult to ascertain from the face of the bill exactly what is proposed. It authorizes the construction of a tunnel under the East river between New York and Brooklyn, but the size of the tunnel is not prescribed nor any of its purposes defined. Whether the proposed tunnel is intended for the use of cars, carriages, freight, or only foot passengers is not disclosed.

The scheme seems to be a gigantic one, but the bill lacks the careful preparation which should characterize the features and details of so important a measure, if it is a genuine undertaking.

But aside from these criticisms the bill contains peculiar and unusual provisions in reference to exemption from taxation, not applicable to similar corporations, and which render the approval of the measure an impossibility.

Further delay in the enactment of this bill will undoubtedly throw more light on its merits.

DAVID B. HILL.



## VETO, ITEMS IN ASSEMBLY BILL No. 943. — THE SUPPLY BILL.

STATE OF NEW YORK.

EXECUTIVE CHAMBER,

ALBANY, April 30, 1891. }

*To the Assembly :*

The several items herein enumerated contained in Assembly bill No. 943, entitled "An act making appropriations for certain expenses of government, and supplying deficiencies in former appropriations," are objected to and not approved for the reasons hereinafter stated.

"The balance remaining in the treasury unexpended of the sum of one hundred and twenty-five thousand dollars, appropriated by chapter thirty-seven of the laws of eighteen hundred and eighty-nine, 'for the pay, transportation, subsistence, and other necessary expenses of such portion of the national guard of this state as were ordered by the adjutant-general to attend the centennial celebration of the inauguration of the first president of the United States,' being the sum of twenty-seven thousand and fifty-four dollars and sixty-three cents, is hereby reappropriated and may be applied for the betterment of the road leading from the state camp at Roa Hook dock; for the construction of a bridge and causeway across Annsville creek, and for the construction of a military road to connect the state camp with the river road near Highland station leading south from Garrison's upon plans to be prepared by the state engineer and surveyor, and to be expended by contract or otherwise under the direction of the adjutant-general, upon bills to be approved by him."

This item is objected to and not approved.

While ostensibly the appropriation is for a public purpose, in reality the benefits resulting from it will be more in the interest of private property, than in the interest of the State or the National Guard. If the National Guard is in equity entitled to the use of this unexpended balance, the money can be used much more profitably, so far as the interests of the National Guard are concerned, by appropriating it for much-needed expenditures for equipment, etc., rather than by applying it toward an expensive scheme of improvement which is chiefly for the benefit of local interests.

“For the commissioners of fisheries to equip their fish car for shad hatching, and to build a shed to house the car, when not in use, twenty-five hundred dollars.”

This item is objected to and not approved.

There was appropriated last year thirty-five hundred dollars for the purpose of allowing the Commissioners of Fisheries to purchase and equip such a car. I am informed by the Commissioners of Fisheries that the lowest bid received for this work was four thousand three hundred dollars, and that some smaller expenditures made necessary will increase the total cost to four thousand eight hundred and thirty-seven dollars and fifty cents, yet if this appropriation is allowed, the Commissioners will have for that purpose the sum of six thousand dollars. I am not opposed to the purpose of the appropriation, but I do not think State commissioners should be encouraged in asking from the Legislature larger appropriations than upon the face of their own figures are necessary for accomplishing the desired objects.

“For the house of refuge for women, at Hudson, to be expended by the local board of managers for the erection and furnishing of a nursery cottage for the use of mothers and their infants, thirteen thousand dollars.”

This item is objected to and not approved, for the reason that it is not deemed expedient to make the proposed expenditure at the present time.

“For the Buffalo State hospital, to be expended under the direction of the local board of managers, for electric-light plant, fifteen thousand dollars.”

This item is objected to and not approved, for the reason stated in objection to the last preceding item.

“For the Utica State hospital, for the purchase of additional farm land, forty thousand dollars.”

This item is objected to and not approved.

While State institutions of this character should have sufficient land for their purposes the information before me does not indicate that the expenditure in this case is advisable at the present time.

"For the Hudson river state hospital for the purchase of additional land, seven thousand dollars."

This item is objected to and not approved for the same reason that is stated in the objection to the last preceding item.

"For the Syracuse State Institution for Feeble-minded Children for an electric-light plant, nine thousand dollars."

This item is objected to and not approved.

Even if the appropriation is necessary, and its necessity is questioned, it is not deemed expedient to make the expenditure this year.

"For the normal and training school, at Fredonia, for repairs and changes in original building; for fitting up rooms for natural science department, for library and reading room; for furniture, books and laboratory apparatus, nine thousand two hundred and fifty dollars."

This item is objected to and not approved.

The expenditures for normal schools are increasing at a rapid rate. It is charged that the purpose for which they were originally designed has been lately much extended, and that they no longer exclusively fit pupils for teachers, but that they are taken advantage of by persons who desire to get a somewhat higher education at the public expense than is afforded by the common schools. This institution alone had an appropriation last year of fifty-one thousand five hundred dollars.

"For the superintendent of public works for necessary repairs of the state road from the east line of the town of Forestport, Oneida county, to Woodhull, in Herkimer county, one thousand dollars, or so much thereof as may be necessary."

This item is objected to and not approved.

While this road is occasionally used by State officers to get to State reservoirs, it is used chiefly, I am informed, as a means of access to a private camp in the Adirondacks. The Legislature appropriated one thousand dollars for improving the road last year and such expenditures in my opinion should not be encouraged by an annual appropriation therefor.

"For the Comptroller, to enable him to make restitution to Donald Mackay, Charles A. Davison and Amos C. Spear, as ancillary executors of the

last will and testament of John P. Howard, deceased, of the sum of twenty-five thousand two hundred and sixty dollars and forty-one cents, paid by them into the treasury December fifth, eighteen hundred and eighty-seven, for collateral inheritance tax under compulsion of a decree of the surrogate's court of New York county, dated November twenty-second, eighteen hundred and eighty-seven, of which decree so much as assessed and fixed the said tax and ordered said ancillary executors to pay the same to the comptroller of the city of New York, was reversed on appeal by the general term of the supreme court of the State of New York October eighth, eighteen hundred and eighty-nine, the sum of thirty-two thousand dollars or so much thereof as may be necessary to pay the said sum of twenty-five thousand two hundred and sixty dollars and forty-one cents and interest thereon to the date of restitution."

This item is objected to and not approved.

I am informed by the Comptroller that claims similar to this and amounting altogether to about seventy-five thousand dollars are on file in his office and that a general bill applicable to their settlement as well as all other claims for the refunding of illegal payments of tax under the collateral inheritance tax law is now pending in the Legislature. It would be manifestly unfair to other claimants to authorize the special relief afforded in this item.

"For the payment of the services and disbursements of Henry M Tate as an accountant, and of his assistants, upon the employment of the committee of the senate on the affairs of cities, in its investigation of the government of cities, pursuant to resolutions of the senate passed January twenty-first and May eighth, eighteen hundred and ninety, the sum of thirteen thousand and sixty dollars and seventy-eight cents; for the payment of the services and disbursements of Cornelius J. Kane as attendant upon said committee during such investigation, the sum of one hundred and fifty-two dollars; and for the services of Margaret J. Jack as janitress of the rooms occupied by said committee in the city of New York during such investigation, the sum of one hundred and twenty-two dollars and fifty cents, or so much thereof in each case as may be necessary."

This item is objected to and not approved.

I have frequently stated my conviction that the public funds should not be used to pay the campaign expenses of political parties by the appointment of legislative committees whose purpose and work are an *ex parte* investigation into undefined and fictitious charges against public officials. The appropriation in this item as

well as those in two other items objected to below is intended to cover only a portion of the large expense incurred by one of the most notorious of these partisan investigating committees, namely, the Fassett committee, so-called. Most of this committee's time and attention were consumed in conducting a dragnet investigation into personal and political matters remotely connected with municipal administration in New York city. Hearsay evidence was freely admitted, the committee's sessions were held prior to the election and apparently for no other purpose than to influence the election, and the investigation was practically abandoned immediately after the election, the result of the contest at the polls being an emphatic condemnation of the committee's actions. I do not believe the people of the State approve such a reckless expenditure of money in so partisan and fruitless an undertaking.

"For the sergeant-at-arms of the senate of eighteen hundred and ninety, for traveling and other necessary expenses incurred by him in attendance upon the committee of the senate on the affairs of cities in its investigation of the government of cities, pursuant to resolutions of the senate passed January twenty-first, and May eighth, eighteen hundred and ninety, and in subpoenaing witnesses therefor, and for fees of witnesses paid by him, the sum of nine hundred and twenty-four dollars and thirty-two cents."

This item is objected to and not approved for reasons similar to those stated in the objections to the immediately preceding item.

"For George H. Thornton, for compensation as stenographer for services, necessary expenses and disbursements in reporting the testimony taken before the committee of the senate on the affairs of cities in its investigation of the government of cities pursuant to resolutions of the senate passed January twenty-first and May eighth, eighteen hundred and ninety, the sum of eleven thousand eight hundred and seventy-five dollars and sixty-seven cents."

This item is objected to and not approved for the same reasons as are stated in the objections to the two last preceding items.

"For deficiency in appropriations for maintenance and expense of teachers' institutes, for the fiscal year ending September thirty, eighteen hundred and ninety-one, five thousand dollars."

This item is objected to and not approved.

This deficiency appears to have been caused intentionally by the unnecessary extension of the instruction given in teachers' institutes. The Legislature ought not to encourage deficiencies of this kind.

"For Russell S. Johnson, for his legal and other necessary expenses incurred by him in the matter of the election contest for the seat in the Assembly of eighteen hundred and ninety-one from the third assembly district of Oneida county, the sum of fifteen hundred dollars, or so much thereof as may be necessary."

This item is objected to and not approved.

The amount appropriated is extravagant in view of the circumstances surrounding this contest. There was no hearing nor was any testimony taken in the case. The contestant filed a petition and subsequently withdrew it and the sitting member's expenses must have been slight, if anything.

DAVID B. HILL

# DESIGNATION OF JUDGE BARRETT AS ASSOCIATE JUSTICE, FIRST DEPARTMENT.

STATE OF NEW YORK.

EXECUTIVE CHAMBER. }

In accordance with the statute in such case made and provided, the Honorable George C. Barrett, a Justice of the Supreme Court of the First Judicial District, is hereby designated as Associate Justice of the General Term for the First Department of the Supreme Court, in the place of and for the unexpired term of the Honorable John R. Brady, deceased.

Given under my hand and the privy seal of the State, at  
[L. S.] the Capitol in the city of Albany, this second day of  
May, A. D. 1891.

DAVID B. HILL,

By the Governor:

T. S. WILLIAMS,

*Private Secretary.*

## DESIGNATION OF JUDGE LEWIS AS ASSOCIATE JUSTICE, FIFTH DEPARTMENT.

STATE OF NEW YORK.

EXECUTIVE CHAMBER. }

In accordance with the statute in such case made and provided, the Honorable Loran L. Lewis, a Justice of the Supreme Court of the Eighth Judicial District, is hereby designated as Associate Justice of the General Term for the Fifth Department of the Supreme Court, in the place and for the unexpired term of the Honorable Thomas Corlett, deceased.

Given under my hand and the privy seal of the State, at  
[L. s.] the Capitol in the city of Albany, this second day of  
May, A. D. 1891.

DAVID B. HILL,

By the Governor:

T. S. WILLIAMS,

*Private Secretary.*

## DESIGNATION OF JUDGE TRUAX FOR THE FIRST JUDICIAL DISTRICT, SUPREME COURT.

STATE OF NEW YORK.

EXECUTIVE CHAMBER. }

It appearing to my satisfaction upon the application of the Honorable Charles H. Van Brunt, Presiding Justice of the General Term of the First Department of the Supreme Court, that the public interest requires it;

Therefore, in accordance with the statute in such case made and provided, the Honorable Charles H. Truax, a Judge of the Superior Court of the city and county of New York, is hereby designated to hold Special Terms and Circuit Courts of the said Supreme Court for the First Judicial District, at the court-house

in the city of New York, in the months of May, June, October, November and December in the year 1891, and to hold Special Terms of the said Supreme Court for the First Judicial District, at the court-house in the city of New York, in the months of July, August and September in the said year 1891, in the place of the Honorable George L. Ingraham heretofore designated to hold said courts as above described and who has resigned his office as a Judge of the Superior Court of the city and county of New York.

Given under my hand and the privy seal of the State, at  
[L. s.] the Capitol in the city of Albany, this second day of  
May, A. D. 1891.

DAVID B. HILL.

By the Governor:

T. S. WILLIAMS,

*Private Secretary.*

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MEMORANDUM FILED WITH SENATE BILL No. 346,  
AMENDING THE ACT ESTABLISHING BOARDS  
OF MEDICAL EXAMINERS.

STATE OF NEW YORK.

EXECUTIVE CHAMBER,

ALBANY, May 4, 1891. }

*Memorandum filed with Senate bill No. 346, entitled "An act to amend chapter five hundred and seven of the laws of eighteen hundred and ninety, entitled 'An act to establish boards of medical examiners of the State of New York for the examination and licensing of practitioners of medicine and surgery; to further regulate the practice of medicine and surgery.'"* Approved.

This bill seems to be a reasonable and proper measure.

On June 5th of last year, I cheerfully approved the act which provided for the creation of boards of medical examiners, which



act was intended to pave the way for the establishment of a higher standard for practitioners of medicine to be thereafter admitted. There was considerable opposition to the bill at the time, but such opposition was not permitted to prevail.

Through inadvertence (it must be assumed) last year's bill omitted to except from its provisions those students who had duly matriculated at some medical college prior to the passage of the act. This bill simply supplies that omission.

The amendment is deemed entirely reasonable. Had my attention been called to the subject last year, I should have insisted that such students should have been exempted from the provisions of the new act.

The course suggested is not without precedent. When in 1871 new rules and regulations were established for the admission of law students, the Legislature subsequently by repeated acts expressly exempted from its provisions certain classes of students who had already entered law schools or who had regularly entered upon their law studies prior to the enactment of the law. (*See chapter 417, Laws of 1877; chapter 126, Laws of 1878; chapters 35, 257 and 349, Laws of 1879; chapter 58, Laws of 1880, and chapter 25, Laws of 1881.*) These precedents are exactly in point.

The Court of Appeals recently established new and additional rules for admission to the bar, but in the very order providing for the change it declared that the new rules should not apply to law students who had previously filed their certificates and were actually engaged in their studies. (*See recent rules of Court of Appeals.*)

This seems to be just and fair in reference to law students, and I can see no good reason why the same equitable principle should not be applied to medical students who had acted in good faith, and who may be said to have acquired certain "vested rights" prior to the act of last year.

The present bill does not deserve the criticism to which it has

been subjected. It is based upon a correct principle, and I can discover no good reason why it should not be approved.

DAVID B. HILL.

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VETO, SENATE BILL No. 401, RELATING TO SALARY  
OF CORONERS IN ERIE COUNTY

STATE OF NEW YORK.

EXECUTIVE CHAMBER,

ALBANY, May 5, 1891. }

*Memorandum filed with Senate bill No. 401, entitled "An act to amend chapter 248 of the laws of 1875, entitled 'An act in relation to coroners' fees and post-mortem examinations in Erie county.'"* Not approved.

The act of 1875, which this bill proposes to amend, provides that the board of supervisors shall fix the salary of the coroners residing in Buffalo city at a sum not exceeding two thousand dollars, and for those residing outside of said city, at a sum not exceeding five hundred dollars. This bill repeals the limitations contained in the original act and permits the supervisors to fix the salaries of the coroners of Erie county at whatever sum they please. It unwisely removes all the reasonable restrictions which now exist for the protection of the taxpayers. Its object, undoubtedly, is to permit the salaries of the coroners of Erie county to be increased at the next meeting of the supervisors.

No facts are shown to exist justifying the change proposed. The bill is not in the public interest and I cannot approve it.

DAVID B. HILL.

VETO, ASSEMBLY BILL No. 873, RELATING TO LABOR  
ON QUEENS COUNTY HIGHWAYS.

STATE OF NEW YORK.

EXECUTIVE CHAMBER,

ALBANY, May 6, 1891. }

*Memorandum filed with Assembly bill No. 873, entitled "An act to amend chapter 441 of the laws of 1864, entitled 'An act in relation to the performance of highway labor in Queens county as amended by chapter 68 of the laws of 1885, and to repeal chapter 451 of the laws of 1880, entitled "An act in relation to the performance of highway labor in Queens county."'" Not approved.*

This bill is defective in form in that the title of chapter 441 of the laws of 1864 is incorrectly stated to be the title of chapter 451 of the laws of 1885. I cannot be expected to approve such slipshod legislation.

DAVID B. HILL.

VETO, ASSEMBLY BILL No. 875, EXTENDING THE  
POWERS OF BOARDS OF SUPERVISORS.

STATE OF NEW YORK.

EXECUTIVE CHAMBER,

ALBANY, May 6, 1891. }

*Memorandum filed with Assembly bill No. 875, entitled "An act to confer further power of local legislation upon boards of supervisors, except in the county of New York." Not approved.*

The title and body of this bill are inconsistent. The title reads: "An act to confer further power of local legislation upon boards of supervisors *except in the county of New York.*" In no section of the bill is New York county excepted from its provis-

ions, while by section 5 the bill is expressly made inapplicable to the county of Kings. The bill must be regarded as fatally defective.

DAVID B. HILL.

VETO, SENATE BILL No. 359, RELATING TO STREETS  
IN NORTH TONAWANDA, NIAGARA COUNTY.

STATE OF NEW YORK.

EXECUTIVE CHAMBER, }  
ALBANY, May 6, 1891. }

*Memorandum filed with Senate bill No. 359, entitled "An act to amend chapter 203 of the laws of 1887, entitled 'An act to provide for the improvement of the streets and alleys in the village of North Tonawanda, Niagara county, and for defraying the expenses thereof by local assessment.'"* Not approved.

The village of North Tonawanda was incorporated under the general village act of 1870. That general act provided for the incorporation of all villages thereafter to be created and was followed by the constitutional amendments of 1874, which prohibited special or local acts incorporating villages and required all villages to be organized under a general act.

This bill amends a special act passed in 1887 relating to the streets of the village of North Tonawanda. That act was virtually an amendment of the charter of the village, and is of doubtful constitutionality. This proposed act is subject to the same criticism. The act of 1887 ought never to have been passed, and the amendment now proposed should not be approved.

The Constitution in its spirit if not in its strict letter, forbids the amendment of village charters organized under the general village act of 1870, and likewise prevents the enactment of local or special laws conferring additional powers or privileges upon such villages. The general act should be amended if additional

powers are desired for such villages. The theory of the Constitution is that there should be uniform village charters for all villages organized since 1870 and that may hereafter be organized.

The same reasons contained in my recent veto of a similar act for Tonawanda are applicable to this measure, and prevent its approval.

DAVID B. HILL.

VETO, SENATE BILL No. 124, TO AMEND CERTAIN LAWS ALREADY REPEALED (CH. 526, LAWS OF 1887, ETC.).

STATE OF NEW YORK.

EXECUTIVE CHAMBER,  
ALBANY, May 6, 1891.

*Memorandum filed with Senate bill No. 124, entitled "An act to amend chapter 526 of the laws of 1887, entitled 'An act to relieve the towns of this state from damages sustained by persons while engaged in transporting traction engines along the highways of this state,' as amended by chapter 210 of the laws of 1890." Not approved.*

This bill is defectively drafted.

As its title indicates, it proposes to amend chapter 526 of the Laws of 1887, as amended by chapter 210 of the Laws of 1890. Both of these acts were repealed by chapter 568 of the Laws of 1890, which went into effect March 1, 1891. The amendment should have been to section 154 of the highway law.

DAVID B. HILL.

MEMORANDUM FILED WITH SENATE BILL No. 548,  
 RATIFYING ACTS OF HIGHWAY COMMISSION-  
 ERS OF LITTLE FALLS, HERKIMER COUNTY.  
 APPROVED.

STATE OF NEW YORK.

EXECUTIVE CHAMBER,

ALBANY, May 8, 1891. }

*Memorandum filed with Senate bill No. 548, entitled "An act to ratify certain proceedings of the commissioners of highways of the town of Little Falls, and to confirm their jurisdiction of and power to construct bridges across the Mohawk river in said town." Approved.*

Strictly this bill ought to specify the acts and proceedings which were omitted or illegal, and which are intended to be legalized. This is the general rule and the correct method of legislation; but the Legislature having adjourned, and there being no opportunity to correct the error at this time, and the necessity for ratification being very imperative, as I am advised, I have concluded to approve the bill in its present form. It should not, however, constitute a precedent for future legislation.

DAVID B. HILL.

MEMORANDUM FILED WITH SENATE BILL, NOT  
 PRINTED, RELATING TO A FREE SCHOOL IN  
 HEMPSTEAD, QUEENS COUNTY. APPROVED.

STATE OF NEW YORK.

EXECUTIVE CHAMBER,

ALBANY, May 8, 1891. }

*Memorandum filed with Senate bill, not printed, entitled "An act to amend section 7 of chapter 116 of the laws of 1863, entitled 'An*

*act to establish a free school in district number one in the town of Hempstead.'"* *Approved.*

This bill is approved with some reluctance. It amends a special act relating to school district number one in the town of Hempstead. The original special act provides that the district cannot levy a tax exceeding one-fourth of one per centum of the assessed valuation, and the purpose of this amendment is to permit a larger assessment for school purposes. If the district had no special act, there would be no occasion for the measure. The appropriate remedy is a repeal of the special act, rather than an amendment of it. But that course not having been pursued and the Legislature having adjourned, it is impossible to pass a repealing act at this time, and there being an imperative necessity for some immediate relief, and the Superintendent of Public Instruction having recommended the approval of the measure, I am constrained, under the circumstances, not to withhold my signature: but the bill ought not to be considered a precedent for future legislation.

The legislation applicable to school districts ought to be general in its character and substantially uniform throughout the State, and next year the original special act, as well as the present amendment thereto, should be repealed.

DAVID B. HILL.

MEMORANDUM FILED WITH SENATE BILL No. 360,  
AMENDING THE BENSONHURST PARK ACT,  
KINGS COUNTY. APPROVED.

STATE OF NEW YORK.

EXECUTIVE CHAMBER,  
ALBANY, May 11, 1891.

*Memorandum filed with Senate bill No. 360, entitled "An act to amend chapter 230 of the laws of 1890, entitled 'An act for the*

*establishment and government of a public park in the town of New Utrecht, to be known as the Bensonhurst park, and providing that the same shall be a public work of the towns of New Utrecht and Gravesend, in the county of Kings, and to authorize said towns to provide for the means therefor by the issue of bonds.'"* *Approved.*

This act simply amends a law of last year which provided for the laying out and maintenance of a park for the joint use and benefit of the two towns of New Utrecht and Gravesend. There is no general law under which such a park can be secured, and the relief sought must be obtained by a special law or not at all. While I could not consistently approve a special act to provide for the erection of a park for a single town (because the construction of any such park should, in my judgment, be provided for under a general law) yet where, as in the present case, a park is desired to be constructed for the joint use and benefit of two towns, it seems to be proper that it should be accomplished under a special act, as a peculiar and unusual situation is presented. The facts here shown are exceptional in their nature, requiring special relief which cannot appropriately be secured by general legislation, and, therefore, the objections which are usually urged against special legislation for a particular town are not applicable.

DAVID B. HILL.

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VETO, SENATE BILL No. 492, AMENDING THE OSWEGO CITY CHARTER.

STATE OF NEW YORK.

EXECUTIVE CHAMBER, }  
ALBANY, May 12, 1891. }

*Memorandum filed with Senate bill No. 492, entitled "An act to amend chapter 127 of the laws of 1877 entitled 'An act to amend*



*and make additions to chapter 463 of the laws of 1860, entitled "An act to revise the charter of the city of Oswego, and the acts amendatory thereof." "*Not approved.

This bill is vigorously opposed by the mayor and other local authorities of Oswego. It is claimed that the measure was not suggested, prepared or authorized by the common council, the board of public works, or any other representative body or official of said city. It is urged in opposition to the measure that while its ostensible object is to promote competition in the letting of contracts, its actual effect will be to prevent competition, annoy bidders, and embarrass the public interests.

It must be conceded that the bill has not been carefully framed, and that some of its provisions are not wholly free from ambiguity; and upon the whole it does not seem to be a satisfactory measure

Whether the bill was originally devised and intended for the protection of monopoly rather than for the promotion of the public interests, it is not necessary for me to inquire. It is sufficient that I am satisfied that the bill in its present form is not desired by the official representatives of the city and by a majority of the people, and that I feel it incumbent upon me to respect their judgment and to abide by their wishes in this matter. The bill is an amendment to the charter, and as there seems to be no immediate necessity for the proposed legislation, even if it was not regarded as of doubtful propriety, it is deemed to be the wisest and safest course to permit the proposed legislation to remain in abeyance for another year, when a proper measure, freed from any suspicion of injustice, can be carefully prepared, which will be more satisfactory to the people.

DAVID B. HILL.

ORDER DIRECTING THE ABATEMENT OF CERTAIN  
PUBLIC NUISANCES AT BARREN ISLAND, KINGS  
COUNTY.

STATE OF NEW YORK.

EXECUTIVE CHAMBER. }

WHEREAS, On the 14th day of October, 1890, the Rockaway Park Improvement Company, Limited, presented its verified petition to the Governor of the State of New York, complaining of certain nuisances alleged to exist on Barren Island, in the county of Kings and State of New York, which nuisances it was charged in said petition, affected the security of life and health in the locality of said Barren Island, and praying for the abatement of such nuisances, or that the matter be referred to the State Board of Health for examination and report, to the end that on the coming in of such report, an order might be made as applied for in said petition; and,

WHEREAS, On said 14th day of October, 1890, the Governor transmitted the said petition to the State Board of Health, requiring said board to investigate the charges therein contained, and to examine into the nuisances therein complained of, and to report the result of such examination and investigation to the Governor; and,

WHEREAS, The State Board of Health did thereafter examine into said alleged nuisances, and on notice to the complainants and to all parties interested, did take testimony as to the existence of such nuisances, and did, on the 16th day of January, 1891, make its report, which report, with the approval of the Governor endorsed thereon, was duly filed in the office of the Secretary of State on the 30th day of January, 1891, by which report it appears that divers offensive trades and nuisances are carried on upon said Barren Island as by said report, reference being had thereto, will more fully appear;

*Now, therefore*, I, David B. Hill, Governor of the State of New York, in pursuance of the statute in such case made and provided, do hereby declare the business and trades maintained and carried on on Barren Island, in the county of Kings and State of New York, by Thomas F. White and Andrew J. White, composing the firm of Peter White's Sons, E. Frank Coe, The Barren Island Oil and Guano Company, and The Barren Island Fertilizing Oil Company to be public nuisances, and I do order and direct that the manner of conducting such offensive business and trades be forthwith changed in the following particulars, to-wit:—

First.—That the conduits, exhaust-fans and condensers at the works of E. Frank Coe on said island be kept in proper running order and used at all times when manufacturing is carried on at said works; that the conduits and fans drawing the air from the storage sheds of the material manufactured at said factory be kept in good order and used at all times when said manufactured material is stored in said sheds, and that said sheds be kept in proper repair, with the side boarding thereof tight and in good condition.

Second.—That at the factory of Thomas F. White and Andrew J. White, composing the firm of Peter White's Sons, conduits with an exhaust-fan be run from the upper portion of the cutting-up room, in such a manner that the odor from said cutting-up room shall be carried off by said conduits, and said odors shall be carried over or through disinfectants and under the furnace fires for destruction; and also that disinfectants be exposed, in proper quantities, in the cutting-up room at said factory.

Third.—That at the factories of The Barren Island Oil and Guano Company and The Barren Island Fertilizing Oil Company, the fish be boiled in covered kettles, with proper flues, exhaust-fans and condensers; that no more fish be received or kept at said factory in one day than can be properly handled and dried upon the platform. That no wet scrap be allowed to remain upon the open platforms at said factory more than twenty-

four hours, and that no decayed or decaying fish or scrap be there exposed. That flues and exhaust-fans be fitted to the shed where wet scrap is placed, when the weather does not permit of its being dried upon the platforms; and that the fumes from such shed be condensed or destroyed under the furnace fires.

Fourth.—That the State Board of Health appoint an inspector for said Barren Island, whose compensation shall be fixed by said board not to exceed five hundred dollars per annum, to be paid monthly in equal parts by the persons and corporations carrying on the trades and occupations herein referred to. Said inspector shall hold office during the pleasure of said State Board of Health. He shall visit said Barren Island and make a careful examination of all of the said factories at least twice in each week and as often in addition thereto as the State Board of Health may prescribe. He shall report to said State Board all violations of this order, and all violations of sanitary rules and regulations, within twenty-four hours after such violation; and it shall be his duty to report to said Board of Health weekly, from the first day of June to the first day of November in each year, and monthly at other times, upon the general sanitary condition of each of said factories.

Fifth.—In default of compliance with this order by the persons and corporations hereinbefore named, such further order may issue, upon the application of the State Board of Health, as may be necessary to secure the removal of the nuisances complained of.

Given under my hand and the privy seal of the State, at  
[L. S.] the Capitol in the city of Albany, this thirteenth day  
of May, in the year of our Lord one thousand eight  
hundred and ninety-one.

DAVID B. HILL.

By the Governor:

T. S. WILLIAMS,

*Private Secretary.*

IN THE MATTER OF F. H. PECK, DISTRICT ATTORNEY OF JEFFERSON COUNTY. APPOINTMENT OF A COMMISSIONER.

STATE OF NEW YORK.

EXECUTIVE CHAMBER. }

*In the matter of the charges preferred against Frank H. Peck,  
District Attorney of Jefferson county.*

Charges having been preferred against Frank H. Peck, District Attorney of the county of Jefferson, by J. M. Tilden, John D. Huntington and John C. Sterling, and a copy thereof having been served upon the said District Attorney with notice to show cause why he should not be removed from such office, and the said Frank H. Peck having filed his answer to the charges preferred therein,

I do hereby appoint the Honorable Francis R. Gilbert, of Stamford, commissioner to take the testimony and the examination of witnesses as to the truth of said charges and to report the same to me, and also the material facts which he may deem to be established by the evidence

It is hereby further ordered that the Attorney-General of the State of New York conduct the inquiry and examination in the prosecution of the said charges before said commissioner, and

It is hereby further ordered that said examination proceed with all convenient speed.

Given under my hand and the privy seal of the State, at  
[L. s.] the Capitol in the city of Albany, this eighteenth day  
of May, A. D. 1891.

DAVID B. HILL.

By the Governor:

T. S. WILLIAMS,

*Private Secretary.*

VETO, ASSEMBLY BILL No. 1019, TO REGULATE THE  
CARE OF WESTCHESTER COUNTY PAUPERS.

STATE OF NEW YORK.

EXECUTIVE CHAMBER,

ALBANY, May 21, 1891. }

*Memorandum filed with Assembly bill No. 1019, entitled "An act to provide for the care and commitment of pauper, destitute and indigent children, the expense of whose maintenance is a charge upon the county of Westchester, and to define the duties of the superintendent of the poor in the county of Westchester." Not approved.*

This is unnecessary special legislation applicable to the county of Westchester alone. However meritorious and desirable its provisions may be, I can see no adequate reason why there should be enacted a special law for Westchester county relating to the care and commitment of pauper, destitute and indigent children. There is already a general statute relating to the same subject applicable to the whole State, and if its provisions are insufficient or inadequate it should be amended by incorporating therein the valuable provisions of the proposed legislation.

The laws in regard to the poor, the insane, the deaf and dumb, and the blind, and those relating to children, to taxes, highways, charities, schools, and subjects of that character, should be substantially alike throughout the State and should be embraced in one general comprehensive statute. The principles of correct legislation forbid that there should be a special and different law in regard to such matters for each of the sixty counties in the State.

If the county of Westchester is suffering from any other special legislation enacted in the past applicable to her charitable institutions, and the existence of which is now urged as a reason for the present extraordinary measure, the true remedy lies in the repeal

of such legislation and not in the enactment of further legislation of the same objectionable character.

DAVID B. HILL.

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VETO, ASSEMBLY BILL NO. 1211, FOR A SOLDIERS'  
MEMORIAL ARCH IN NEW YORK CITY.

STATE OF NEW YORK.

EXECUTIVE CHAMBER,

ALBANY, May 21, 1891. }

*Memorandum filed with Assembly bill No. 1211, entitled "An act to provide for a soldiers and sailors' memorial arch in the city of New York." Not approved.*

I regret that I cannot approve this bill. It is defective in that its provisions are mandatory, while they should be merely permissive. While it is proper that the local authorities of New York should have authority to erect a memorial arch if they so desire, there is no reason why they should be compelled to do so. The Legislature should not *direct* any municipality to erect a memorial arch at the public expense, or to erect any other monument or structure, whether for a patriotic purpose or otherwise; but it should content itself with merely conferring the necessary authority therefor upon the municipality and leaving full discretion in the local officials whether or not to exercise the authority. The bill violates an established principle of legislation which I have endeavored to enforce during the past seven years, and I cannot consistently approve it.

I cheerfully approved a bill for a memorial arch in Brooklyn because it was permissive and not mandatory in its terms.

DAVID B. HILL.

## VETO, SENATE BILL No. 269 — THE HARVEY BILL.

STATE OF NEW YORK.

EXECUTIVE CHAMBER,

ALBANY, May 22, 1891. }

*Memorandum filed with Senate bill No. 269, entitled "An act to regulate the custody and disbursement of elevated railway income percentage special tax receipts in certain cases." Not approved.*

This bill is popularly known as the "Harvey bill."

In the year 1885 the Legislature passed and I approved a measure which was likewise known as the "Harvey bill," but which the Court of Appeals, on the application of the local authorities of New York city, subsequently declared to be unconstitutional. (*See People, ex rel. Harvey, v. Loew*, 102 N. Y., 471.) That bill was approved by me upon two grounds: First, because it provided what I then regarded as a reasonable method by which Mr. Harvey, without injustice to public interests, might receive some measure of compensation for his previous services in aiding New York city in obtaining its present means of transit; and second, because it provided for further experiments to be made by him in the effort to secure new and additional facilities for rapid transit. The prospect of developing further plans for practical rapid transit under the provisions of that bill was the principal argument which led to its approval. (*See Public Papers of 1885, p. 196.*)

The present bill differs materially from the one of 1885. It abandons all idea of any portion of the accumulated funds in question being used to develop any new or additional plans for rapid transit. The bill, therefore, lacks for its support the argument that it is intended to accomplish something for the public benefit, but has narrowed itself into having for its sole object the allowance of an equitable claim to a private citizen, or providing



a method for its payment from a particular fund now in the treasury of New York city.

I am not disposed to dispute the fact that Mr. Harvey's "claim" is supported by many and able considerations. It is true that some of them are not very tangible or well defined, but they are plausible and it may be urged that the Legislature has a right in its discretion to recognize any sort of a claim, whether founded upon mere equity, charity, voluntary meritorious public services, gratitude, or other worthy considerations which appeal to our sense of fairness and propriety.

The honesty of Mr. Harvey's claim is supported by letters in its favor from many well-known citizens, including Warner Miller, George S. Coe, John J. Knox, Charles R. Flint, A. C. Cheney, E. L. Fancher, Rev. Charles H. Parkhurst, A. B. Darling, James McCreery, and numerous others.

The local authorities, however, strenuously object to the approval of the measure, urging constitutional and other objections. They attack the validity of the proposed scheme, as well as protest that it is without substantial merit. Their views are entitled to respectful attention and cannot well be ignored. There seems to be much force to some of the constitutional objections which they now present for the first time.

The Railroad Commissioners of the State, to whom the bill has been referred by me for their opinion, report that they do not recommend its approval.

After a perusal of all the briefs submitted on both sides, and a painstaking examination of all the questions involved, I have arrived at the conclusion that my duty will be best performed by permitting the objections of the local authorities to prevail, and by withholding my approval of the measure.

DAVID B. HILL.

MEMORANDUM FILED WITH SENATE BILL, NOT  
PRINTED, AMENDING THE CHARTER OF THE  
ROCHESTER ATHENÆUM. APPROVED.

STATE OF NEW YORK.

EXECUTIVE CHAMBER, }  
ALBANY, May 22, 1891. }

*Memorandum filed with Senate bill, not printed, entitled "An act to amend chapter 33 of the laws of 1830, entitled 'An act to incorporate the Rochester Athenæum.'"* Approved.

This bill changes the name of a corporation. That may now be done under general law. Were this its only object, I should not approve it. But the bill also changes the number of directors of the corporation from 17 to 35. To make this change a special act is required. An unnecessary provision changing the name of a corporation should not be inserted in a bill that is otherwise unobjectionable; yet under the exceptional circumstances which I am informed exist in this case, requiring an immediate change in the number of directors, I am constrained, with some reluctance, to permit this bill to become a law.

If the Legislature were in session I should insist that the bill be recalled for amendment.

DAVID B. HILL.

MEMORANDUM FILED WITH SENATE BILL, NOT  
PRINTED, CHANGING THE NAME OF THE MADI-  
SON FORKS OBITUARY SOCIETY. APPROVED.

STATE OF NEW YORK.

EXECUTIVE CHAMBER, }  
ALBANY, May 22, 1891. }

*Memorandum filed with Senate bill, not printed, entitled "An act changing the name of the cemetery association incorporated by chap-*

*ter 264 of the laws of 1824, and authorizing it to take and hold property of not more than six hundred dollars in value, and to take and hold property in trust." Approved.*

This bill, among other things, changes the name of a cemetery corporation, which may now be done under general law, and, therefore, the considerations set forth in my memorandum filed this day with the Senate bill amending the act incorporating the Rochester Athenæum, apply with equal force to this bill. But the other and principal objects of this bill, to-wit: to authorize the acquisition of necessary property, and to legalize previous acquisitions, I am advised, are not now given to this corporation by any existing statute, and are urgently needed at this time. Under these circumstances I permit it to become a law.

If the Legislature were in session I should insist that the bill be recalled for amendment.

DAVID B. HILL.

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MEMORANDUM FILED WITH ASSEMBLY BILL, NOT  
PRINTED, EXTENDING THE DURATION OF THE  
NEW YORK CITY BOARD OF ELECTRICAL CON-  
TROL. APPROVED.

STATE OF NEW YORK.

EXECUTIVE CHAMBER,

ALBANY, May 22, 1891. }

*Memorandum filed with Assembly bill, not printed, entitled "An act in relation to the term of office of the Board of Electrical Control in and for the city of New York." Approved.*

There seems to have been considerable public hostility to this measure. Part of the criticism which has made it notorious has arisen, I am inclined to think, from the circumstances of its passage. It is true that it passed the Senate on the last day of the

session, notwithstanding the convenient "deadlock" which that body had declared should continue until the final adjournment. It is true also that it was taken up out of its order and in preference to a number of other measures of general importance and necessity which had passed the Assembly and which the people expected to pass the Senate. It also seems to be true that this particular bill was made an exception for the mere reason that it retained in office a genial politician of the same political faith as the majority of the Senate. The Senate passed this measure, although it refused to pass the World's fair bill which was then upon the table awaiting its consideration. The one measure aided a political friend—the other was a patriotic measure demanded only by the people. The "honor" of the Senate permitted it to pass the one, but not the other, although it was well known that the defeat of the latter meant humiliation to the State and embarrassment to a great national enterprise.

But notwithstanding the peculiar and extraordinary favoritism shown this bill on the last day of the session, the circumstances of its passage should not prejudice the bill's fate. I am inclined to think that the measure itself is of somewhat questionable propriety. It is a grave question whether it is not an unwise policy to be annually extending the life of the Board of Electrical Control, and it may well be claimed that the best interests of the city of New York would be subserved by placing the electrical system at once under the control of some of the regularly constituted local authorities, rather than continuing it in the hands of a special board. But the Legislature having adjourned, and as there are serious differences of opinion in regard to this matter among those who have studied the subject more than I have had an opportunity to do, I have concluded with some reluctance to waive my own objections and permit the measure to become a law with my formal approval.

DAVID B. HILL.

MEMORANDUM FILED WITH ASSEMBLY BILL, NOT  
PRINTED, FIXING THE ANNUAL TAX RATE. AP-  
PROVED.

STATE OF NEW YORK.

EXECUTIVE CHAMBER,

ALBANY, May 22, 1891. }

*Memorandum filed with Assembly bill, not printed, entitled "An act to provide ways and means for the support of the Government."*  
*Approved.*

The enactment of this bill completes the legislation for raising the revenues necessary to meet the expenses and obligations of the government during the next fiscal year. It also forms the last chapter of the session laws of 1891, and I feel no small sense of pride and satisfaction that the last legislative act to which I shall have the pleasure of affixing my official signature, is a measure of such vital interest to the taxpayers, so significant of the prosperity of the State, and so creditable to the legislators and State officers with whom the people have intrusted public affairs.

This bill makes the tax rate for the next fiscal year the lowest since 1855. The rate is nearly half as much as that fixed by the preceding Legislature. It is almost a third of that of 1889. It includes no tax whatever for paying the general expenses of government, ample provision for these being made by the methods of direct taxation recently adopted. The only direct tax is for school and canal purposes. For the former the rate is one mill on each dollar of valuation. For canal purposes, including the canal debt, it is only thirty-seven and a-half one-hundredths of a mill — nearly half as much as last year. The total tax rate for the year will be  $1.37\frac{1}{2}$  mills on each dollar of valuation.

The people of the State are to be congratulated upon this low rate of taxation, an immediate result, as it is, to a large extent, of the emphatic popular protest at the polls last autumn against pub-

lic extravagance and legislation inimical to the State's prosperity. For years the tax-burdened farmer has appealed in vain for relief to the Legislature, and at last he has received it in the substantial form of the lowest tax rate for thirty-six years. The event is certainly one for congratulation and foreshadows the time in the near future when, by an economical administration of the government, no direct taxes whatever will be required for State purposes. It is to be regretted that more toward the accomplishment of this end was not done at the recent session of the Legislature, owing to the failure of the Senate to pass certain equitable measures of indirect taxation which had passed the Assembly.

What has been done, however, remains as the substantial fact and stands forth conspicuous as the crowning act of the shortest legislative session in seventeen years. Professions for economy in public administration are easily made, but prompt performance is more difficult. It is a gratifying feature of this accomplishment that it is the quick and faithful response of the people's representatives to the demands and expectations of the public, as manifested in the popular verdict of last autumn.

DAVID B. HILL.

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VETOES, ASSEMBLY BILL No. 1234, RELATING TO DEAF-MUTES; ASSEMBLY BILL No. 797, GIVING THE BOARD OF CLAIMS JURISDICTION IN SUNDRY CASES; SENATE BILL No. 317, AMENDING §§ 2991 AND 2996, CODE OF CIVIL PROCEDURE (JURORS IN JUSTICES' COURTS); SENATE BILL No. 429, AMENDING THE GLANDERS ACT; SENATE BILL No. 470, GIVING THE BOARD OF CLAIMS JURISDICTION IN THE CLAIM OF WEED, PARSONS & CO.; SENATE BILL No. 62, AMENDING § 830, CODE OF CIVIL PROCEDURE (RELATING TO EVIDENCE).

STATE OF NEW YORK.

EXECUTIVE CHAMBER,

ALBANY, May 22, 1891. }

*Memorandum filed with*

*Assembly bill No. 1234, entitled "An act to amend section 2 and section 9 of chapter 325 of the Laws of 1863, as amended by chapter 213 of the Laws of 1875, entitled 'An act relative to the care and education of deaf-mutes.'"* Not approved.

*Assembly bill No. 797, entitled "An act authorizing the board of claims to hear, audit and determine the claim or claims of Richard Humphrey, Frank Argus, John Argus, John Esser, John S. Hertel, A. A. Justin, W. C. Hubbard, William McIntosh, Caleb J. Coatsworth, Daniel E. Horton, Carroll Brothers, A. Ralph Clark, Anna M. Malcolm, Alexander Reed, and the Laycock Lumber company and William Haven, of Buffalo, New York, and B. and J. Carpenter, of Lockport, New York, and to make an award thereon."* Not approved.

*Senate bill No. 317, entitled "An act to amend sections 2991 and 2996 of the Code of Civil Procedure, relating to jurors in Justices Court."* Not approved.

*Senate bill No. 429, entitled "An act to amend chapter 53 of the Laws of 1888, entitled 'An act to provide for the destruction of animals affected with the disease known as glanders.'" Not approved.*

*Senate bill No. 470, entitled "An act to authorize and empower the board of claims to hear, audit and determine the claim of Weed, Parsons & Company against the State, and to make an award thereon." Not approved.*

*Senate bill No. 62, entitled "An act to amend section 830 of the Code of Civil Procedure, relative to evidence." Not approved.*

The foregoing six bills are either defectively drawn or contain provisions which are of doubtful propriety. I have deemed it wise that before their enactment an opportunity for amendment and correction should be afforded, and for that purpose, that they should receive further consideration at the hands of another Legislature, and for these reasons they are not approved at this time.

DAVID B. HILL.

## PUBLIC NUISANCE AT GLEN COVE, LONG ISLAND— ORDER DIRECTING ITS ABATEMENT.

STATE OF NEW YORK.

EXECUTIVE CHAMBER. }

WHEREAS, a petition signed by citizens of the village of Sea Cliff was presented to me in July, 1890, alleging the existence of a public nuisance at Glen Cove, Long Island, arising out of the methods and practices employed by the Duryea Glen Cove Starch Manufacturing Company in the manufacture of starch and glucose, whereby the health and comfort of the people of the community are jeopardized and the oyster and fishing interests are injured; and

WHEREAS, on the fourth day of August, 1890, I did, as Governor of the State of New York, pursuant to chapter 322 of



the Laws of 1880, require, order and direct the State Board of Health to examine into the nuisances alleged to exist by the aforesaid petition, and to examine into the questions affecting the security of life and health in the localities mentioned in the aforesaid petition and to report to me the results of such examination; and

WHEREAS, the said State Board of Health has made the required examination and reported the results thereof to me within the limits of time prescribed for such examination and report, which report I do hereby in all things approve;

*Now, therefore*, in pursuance of the power vested in me as Governor by said chapter 322 of the Laws of 1880, as amended by chapter 308 of the Laws of 1882, I do declare the following in relation to the things found and certified by the said State Board of Health to be public nuisances, to-wit:

The effluvia arising from the decomposition of the matter contained in the wash water which is held in what is known as the "basin" at the works of the Duryea Glen Cove Starch Manufacturing Company in the town of Oyster Bay, county of Queens, State of New York, and which at certain stages of the tide floods the adjacent lands;

And the effluvia arising from the product called "Starch Food" manufactured by the said Duryea Glen Cove Starch Manufacturing Company.

And to the end that the nuisances set forth above may be abated and removed, I do order that the Duryea Glen Cove Starch Manufacturing Company shall do or cause to be done without delay the things following

*First.* That the discharge of waste material of any kind into the creek at the said works of the said Duryea Glen Cove Starch Manufacturing Company, in the town and county aforesaid, shall be entirely prevented.

*Second.* That none of the sleeping or settling waters or other substances from the works aforesaid shall enter the creek.

*Third.* That all waste fluids and water-carried materials con-

sisting of outflowings from said works shall be conducted away by means of a perfectly closed tube, pipe, or conduit to a point in Hempstead bay, or the waters thereof, where they will meet with such a large body of water as will diffuse them quickly and prevent fermentation.

*Fourth.* That the product known as "Starch Food" made by the company aforesaid, be compressed into bales or other packages before transportation, and the liquid therefrom be removed with the other waste waters as before ordered.

Or that said nuisances be abated and removed.

Given under my hand and the privy seal of the State, at  
[L. s.] the Capitol in the city of Albany, this third day of  
June in the year of our Lord one thousand eight hundred and ninety-one.

DAVID B. HILL.

By the Governor:

T. S. WILLIAMS,

*Private Secretary.*

## THE CIVIL SERVICE—CLASSIFICATION OF STENOGRAPHERS IN THE INSURANCE DEPARTMENT.

STATE OF NEW YORK.

OFFICE OF THE CIVIL SERVICE COMMISSION. }

At a meeting of the New York Civil Service Commission, held June 5th, 1891, it was

*Resolved,* That the following be recommended to the Governor for approval:

*Resolved,* That the positions of Stenographers and Type-writers in the Insurance Department be and are hereby included in Schedule A of the State Classification.

Approved June 8, 1891.

DAVID B. HILL,

*Governor.*

## APPOINTMENT OF SUPERINTENDENT OF CONSTRUCTION FOR THE WESTERN HOUSE OF REFUGE FOR WOMEN.

STATE OF NEW YORK.

EXECUTIVE CHAMBER. }

By virtue of the authority on me conferred by chapter two hundred and thirty-eight of the Laws of 1890 and in accordance with section five of said law, I do hereby appoint Frank T. Reynolds, of the city of Buffalo, Superintendent of Construction of the Western House of Refuge for Women, and direct that he receive an annual salary of twenty-five hundred dollars for his services as such Superintendent.

Given under my hand and the privy seal of the State, at  
[L. S.] the Capitol in the city of Albany, this eighteenth day  
of June, A. D. 1891.

DAVID B. HILL.

By the Governor:

T. S. WILLIAMS,

*Private Secretary.*PUBLIC NUISANCE AT GLEN COVE, LONG ISLAND—  
ORDER MODIFYING ORDER TO ABATE.

STATE OF NEW YORK.

EXECUTIVE CHAMBER. }

WHEREAS, on the third day of June last, upon representations and recommendations made to me by the State Board of Health, I did issue an order directing the Duryea Glen Cove Starch Manufacturing Company to carry out certain prescribed suggestions

for the abatement and removal of alleged nuisances arising out of the manufacture of starch and glucose by the said company at Glen Cove, Long Island; and,

WHEREAS, the State Board of Health has reported to me that after subsequent investigation of the alleged nuisances and after a hearing of all parties in the matter, a proposition looking toward the removal of the nuisances in a manner different from that prescribed in the said order has been submitted to the board by the officers of said company, and is considered by said board to be worthy of trial; and,

WHEREAS, the State Board of Health, in consideration of the aforesaid facts, does request me to suspend the provisions of said order until such time as the State Board of Health shall advise;

*Now, therefore*, in pursuance of the power vested in me as Governor, I do declare that the provisions of said order are hereby suspended during such time (not exceeding the period of four months, however, from the date of this order,) as in the opinion of the State Board of Health shall be sufficient for determining to the satisfaction of the board whether the method submitted by the officers of the Duryea Glen Cove Starch Manufacturing Company for the abatement and removal of said nuisances is a satisfactory means of accomplishing the purpose of the aforesaid order; and I do also direct that at the expiration of said four months the State Board of Health shall report to me whether in its judgment the methods employed by said company have accomplished the desired object, namely, the abatement and removal of said nuisances, and if the judgment of said board be that the methods employed by said company have abated and removed said nuisances, then upon the filing of such report with the Secretary of State the provisions of said order of June third, 1891, shall remain suspended indefinitely; but in case the judgment of said board as shown by its report be that the methods employed by said company have not abated or removed the said nuisances, then upon the filing of such report as aforesaid, and thereafter,

the provisions of said order of June third shall continue in force and of full effect.

Given under my hand and the privy seal of the State, at  
[L. s.] the Capitol in the city of Albany, this twenty-fourth  
day of July in the year of our Lord one thousand eight  
hundred and ninety-one.

DAVID B. HILL.

By the Governor:

T. S. WILLIAMS,  
*Private Secretary.*

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IN THE MATTER OF THE CHARGES AGAINST JESSE  
C. HANSEE, A NOTARY PUBLIC.—NOTICE AND  
SUMMONS.

STATE OF NEW YORK.

EXECUTIVE CHAMBER. }

*In the matter of the charges against Jesse C. Hansee, notary public  
in and for the county of Ulster. Notice and summons.*

To JESSE C. HANSEE:

You are hereby notified that charges of misconduct in office have been preferred against you by the Attorney-General of the State of New York, and a copy of said charges is herewith served upon you.

You are, therefore, required to show cause why you should not be removed from the office of notary public in and for the county of Ulster, and to answer the said charges within eight days after service of this order and a copy of said charges upon you.

In witness whereof I have signed my name and affixed the  
privy seal of the State, at the Capitol in the city of  
[L. s.] Albany, this eighth day of August in the year of our  
Lord, one thousand eight hundred and ninety-one.

DAVID B. HILL.

By the Governor:

T. S. WILLIAMS,  
*Private Secretary.*

IN THE MATTER OF THE APPLICATION FOR CLEM-  
ENCY OF SAMUEL E. WAYMAN, UNDER SEN-  
TENCE. APPOINTMENT OF A COMMISSIONER.

STATE OF NEW YORK.

EXECUTIVE CHAMBER. }

Application for Executive clemency having been made to me by and in behalf of SAMUEL E. WAYMAN, who was convicted in the county of Livingston of the crime of murder in the first degree and was thereupon sentenced to be executed, I do hereby nominate and appoint JOHN B. HOLMES, an attorney and counsellor at law of Worcester, New York, to conduct the hearing in the matter pertaining to said application for clemency, and to take proof of the facts and circumstances relating thereto, and the testimony of all witnesses who may be produced before him; and upon the conclusion of the hearing to forward to me without delay the testimony so taken; and

I do hereby order and direct that for the purposes aforesaid the said JOHN B. HOLMES have and exercise power and authority as provided by Chapter 213 of the Laws of 1887.

In witness whereof I have hereunto signed my name and affixed the privy seal of the State, at the Capitol in  
[L. s.] the city of Albany, this twenty-fourth day of August in the year of our Lord one thousand eight hundred and ninety-one.

DAVID B. HILL.

By the Governor:

T. S. WILLIAMS,

*Private Secretary.*

IN THE MATTER OF THE CHARGES AGAINST  
THOMAS WHEELER, SHERIFF OF ONEIDA CO.—  
NOTICE AND SUMMONS.

STATE OF NEW YORK.

EXECUTIVE CHAMBER. }

*In the matter of the charges against Thomas Wheeler, sheriff of the  
county of Oneida. Notice and summons.*

*To* THOMAS WHEELER, *Sheriff of the county of Oneida :*

You are hereby notified that charges of misconduct and malfeasance in office have been preferred against you by Martin O'Melia of Oswego in this State and a copy of said charges is herewith served upon you.

You are, therefore, required to show cause why you should not be removed from the office of sheriff of the county of Oneida, and to answer the said charges within eight days after service of this order and a copy of said charges upon you.

In witness whereof I have signed my name and affixed the  
privy seal of the State, at the Capitol in the city of  
[L. s.] Albany, this twenty-fifth day of August, in the year of  
our Lord one thousand eight hundred and ninety-one.

DAVID B. HILL.

By the Governor:

T. S. WILLIAMS,

*Private Secretary.*





## IN THE MATTER OF WHEELER, SHERIFF.—APPOINTMENT OF COMMISSIONER.

STATE OF NEW YORK.

EXECUTIVE CHAMBER. }

*In the Matter of the Charges preferred against Thomas Wheeler,  
Sheriff of the County of Oneida.*

Charges having been preferred against THOMAS WHEELER, Sheriff of the county of Oneida, by Martin O'Melia, of Oswego in this State, and a copy thereof having been served upon the said Sheriff with notice to show cause why he should not be removed from such office, and the said THOMAS WHEELER having filed his answer to the charges preferred herein;

I do hereby appoint the Hon. J. HENRY METCALF, County Judge of the county of Ontario, the Commissioner to take the testimony and the examination of witnesses as to the truth of said charges and to report the same to me, and also the material facts which he deems to be established by the evidence.

It is hereby further ordered that said examination before such Commissioner proceed with all convenient speed.

Given under my hand and the privy seal of the State, at  
[L. s.] the Capitol in the city of Albany, this seventeenth day  
of October, A. D. eighteen hundred and ninety-one.

DAVID B. HILL.

By the Governor:

T. S. WILLIAMS,

*Private Secretary.*

## THANKSGIVING PROCLAMATION.

STATE OF NEW YORK.

EXECUTIVE CHAMBER. }

In recognition of a custom long observed, and by virtue of the power vested in me as Governor of the State of New York, I

hereby designate Thursday, the twenty-sixth day of November, to be a day of Thanksgiving.

The year now drawing to a close has given to the people many causes for contentment and thankfulness. It has been a year of singularly abundant harvests. Prosperity and peace have prevailed generally. No calamity has befallen the people. Fair employment has been given to labor. Industry and commerce have earned generous returns and the wealth of the State has been increased. No heavy burdens and no unequal laws have been imposed upon the people by their representatives in the Legislature and their public officers, and the taxes levied for the support of our Commonwealth are the lowest in a generation.

Recalling these evidences of prosperity and these reasons for happiness, it is especially appropriate that we should join at this time in the observance of this long-established custom. I, therefore, ask that upon the day above designated the people will lay aside secular employments, and, in such ways as to each may seem most fitting, manifest their gratitude for the blessings which the year has yielded, and in houses of worship, or at family firesides, devoutly renew the acknowledgment of their indebtedness and responsibility to the Divine Giver of all good things. Amid our rejoicings let the spirit of human fellowship pervade every community and every household, manifesting itself in acts of mercy to the poor, the afflicted and the unfortunate.

Done at the Capitol in the city of Albany, this seventh day  
[L. S.] of November, in the year eighteen hundred and ninety-one.

DAVID B. HILL.

By the Governor:

T. S. WILLIAMS,

*Private Secretary.*

ORDER REMOVING DANIEL E. CONWAY FROM THE  
OFFICE OF COUNTY CLERK OF RENSSELAER.

STATE OF NEW YORK.

EXECUTIVE CHAMBER. }

*In the Matter of the Charges preferred against Daniel E. Conway,  
County Clerk of Rensselaer County.*

Charges of improper and illegal conduct in office having been heretofore formally presented to me, and a copy of the said charges having been served upon the said Daniel E. Conway personally, and an opportunity given him to be heard in his defense, and he having filed an answer denying the charges alleged, and an order having been made by me appointing Robert E. Deyo, of the city of New York, a Commissioner for the purpose of taking testimony and examining witnesses in support of such charges and in refutation thereof, and the Attorney-General of the State having been directed by me to conduct the inquiry and examination before said Commissioner, and the Commissioner having heard all the proofs and allegations upon the subject, and the said Daniel E. Conway having appeared before said Commissioner and submitted the proofs and explanations offered by him in refutation of such charges, and the said Commissioner having made his report to me with all the testimony taken and proceedings had before him, and the said Daniel E. Conway having been given a further opportunity to be heard in his defense before me upon the report of the said Commissioner and the testimony taken by him, and after hearing Hon. R. A. Parmenter of counsel for the said Daniel E. Conway in opposition to such charges, and Marcus T. Hun, Esq., of counsel for the prosecution in favor hereof, and it appearing, after due consideration of the testimony taken and of the argument of counsel, that certain of said charges are substantially true; it is

*Ordered* that the said Daniel E. Conway be and he hereby is removed from the said office of clerk of the county of Rensselaer.

Given under my hand and the privy seal of the State, at the Capitol in the city of Albany, this twelfth day of  
[L. s.] November in the year of our Lord one thousand eight hundred and ninety-one.

DAVID B. HILL.

By the Governor:

T. S. WILLIAMS,  
*Private Secretary.*

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IN THE MATTER OF THE CHARGES AGAINST GEO.  
G. COTTON, CLERK OF ONONDAGA COUNTY.—  
NOTICE AND SUMMONS.

STATE OF NEW YORK.

. EXECUTIVE CHAMBER. }

*In the Matter of the Charges against George G. Cotton, Clerk of  
the County of Onondaga.*

*To* GEORGE G. COTTON, *Clerk of the County of Onondaga:*

You are hereby notified that charges of misconduct in office have been preferred against you, and a copy of said charges is herewith served upon you.

You are hereby further notified that you will be afforded an opportunity of being heard in your defense in answer to said charges before me at the Executive Chamber on Wednesday, November 25th, 1891, at two o'clock in the afternoon.

In witness whereof I have hereunto signed my name and affixed the privy seal of the State, at the Capitol in  
[L. s.] the city of Albany, this twenty-third day of November in the year of our Lord one thousand eight hundred and ninety-one.

DAVID B. HILL.

By the Governor:

T. S. WILLIAMS,  
*Private Secretary.*

DESIGNATION OF JUDGE BEACH FOR THE FIRST  
JUDICIAL DISTRICT, SUPREME COURT.

STATE OF NEW YORK.

EXECUTIVE CHAMBER. }

IT APPEARING to my satisfaction, upon the application of the Honorable Charles H. Van Brunt, Presiding Justice of the General Term of the First Department of the Supreme Court, that the public interest requires it;

*Therefore*, in accordance with the statute in such case made and provided, the

HONORABLE MILES BEACH,

a Judge of the Court of Common Pleas of the city and county of New York, is hereby designated to hold Special Terms and Circuit Courts of the said Supreme Court for the First Judicial District, at the court-house in the city of New York, in the months of January, February, March, April, May, June, October, November and December in the year 1892, and to hold Special Terms of the said Supreme Court for the First Judicial District, at the court-house in the city of New York, in the months of July, August and September in the said year 1892.

Given under my hand and the privy seal of the State, at  
[L. s.] the Capitol in the city of Albany, this twenty-seventh  
day of November, A. D. 1891.

DAVID B. HILL.

By the Governor:

T. S. WILLIAMS,

*Private Secretary.*

DESIGNATION OF JUDGE TRUAX FOR THE FIRST  
JUDICIAL DISTRICT, SUPREME COURT.

STATE OF NEW YORK.

EXECUTIVE CHAMBER. }

IT APPEARING to my satisfaction, upon the application of the Honorable Charles H. Van Brunt, Presiding Justice of the General Term of the First Department of the Supreme Court, that the public interest requires it;

*Therefore*, in accordance with the statute in such case made and provided, the

HONORABLE CHARLES H. TRUAX,

a Judge of the Superior Court of the city and county of New York, is hereby designated to hold Special Terms and Circuit Courts of the said Supreme Court for the First Judicial District, at the court-house in the city of New York, in the months of January, February, March, April, May, June, October, November and December in the year 1892, and to hold Special Terms of the said Supreme Court for the First Judicial District, at the court-house in the city of New York, in the months of July, August and September in the said year 1892.

Given under my hand and the privy seal of the State, at  
[L. s.] the Capitol in the city of Albany, this twenty-seventh  
day of November, A. D. 1891.

DAVID B. HILL.

By the Governor:

T. S. WILLIAMS,

*Private Secretary.*

REVOCATION OF DESIGNATION OF JUDGE POTTER  
TO THE COURT OF APPEALS.

STATE OF NEW YORK.

EXECUTIVE CHAMBER. }

In accordance with the authority vested in the Governor by the Constitution, the designation heretofore made of the Honorable Joseph Potter, a Justice of the Supreme Court of the Fourth Judicial District, as Associate Judge, for the time being, of the Court of Appeals, Second Division, is hereby and at his own request, revoked, such revocation to take effect on the seventh day of December, 1891.

Given under my hand and the privy seal of the State, at  
[L. s.] the Capitol in the city of Albany, this twenty-eighth  
day of November, A. D. 1891.

DAVID B. HILL.

By the Governor :

T. S. WILLIAMS,

*Private Secretary.*

DESIGNATION OF JUDGE LANDON AS ASSOCIATE  
JUDGE OF THE COURT OF APPEALS, SECOND  
DIVISION.

STATE OF NEW YORK.

EXECUTIVE CHAMBER. }

In accordance with the authority vested in the Governor by the Constitution, the

HONORABLE JUDSON S. LANDON,

a Justice of the Supreme Court of the Fourth Judicial District, is hereby designated to act as Associate Judge, for the time being, of the Court of Appeals, Second Division, from the seventh





STATE OF NEW YORK. }

EXECUTIVE CHAMBER. }

In accordance with the statute in such case made and provided,  
the

HONORABLE MORGAN J. O'BRIEN,

a Justice of the Supreme Court of the First Judicial District, is hereby designated as Associate Justice of the General Term for the First Department of the Supreme Court from and after the first day of January, A. D. 1892, in the place of the Honorable Charles Daniels, whose term of office is about to expire.

Given under my hand and the privy seal of the State, at  
[L. s.] the Capitol in the city of Albany, this twenty-eighth day  
of November, A. D. 1891.

DAVID B. HILL.

By the Governor:

T. S. WILLIAMS,

*Private Secretary.*

STATE OF NEW YORK. }

EXECUTIVE CHAMBER. }

In accordance with the statute in such case made and provided,  
the

HONORABLE CALVIN E. PRATT,

a Justice of the Supreme Court of the Second Judicial District (re-elected), is hereby designated as Associate Justice of the General Term for the Second Department of the Supreme Court from and after the first day of January, A. D. 1892, his previous designation as Associate Justice being about to expire because of the close of his official term on December thirty-first, 1891.

Given under my hand and the privy seal of the State, at  
[L. s.] the Capitol in the city of Albany, this twenty-eighth  
day of November, A. D. 1891.

DAVID B. HILL.

By the Governor:

T. S. WILLIAMS,

*Private Secretary.*

STATE OF NEW YORK. }

EXECUTIVE CHAMBER. }

In accordance with the statute in such case made and provided,  
the

HONORABLE STEPHEN L. MAYHAM,

a Justice of the Supreme Court of the Third Judicial District, is hereby designated as Presiding Justice of the General Term for the Third Department of the Supreme Court from and after the first day of January, A. D. 1892, in the place of the Honorable William L. Learned, whose term of office is about to expire.

Given under my hand and the privy seal of the State, at  
[L. s.] the Capitol in the city of Albany, this twenty-eighth  
day of November, A. D. 1891.

DAVID B. HILL.

By the Governor :

T. S. WILLIAMS,

*Private Secretary.*

STATE OF NEW YORK. }

EXECUTIVE CHAMBER. }

In accordance with the statute in such case made and provided, the

HONORABLE D. CADY HERRICK,

a Justice-elect of the Supreme Court of the Third Judicial District, is hereby designated as Associate Justice of the General Term for the Third Department of the Supreme Court from and after the first day of January, A. D. 1892, in the place of the Honorable Stephen L. Mayham who has been designated as Presiding Justice for said department.

Given under my hand and the privy seal of the State, at  
[L. s.] the Capitol in the city of Albany, this twenty-eighth  
day of November, A. D. 1891.

DAVID B. HILL.

By the Governor:

T. S. WILLIAMS,

*Private Secretary.*

STATE OF NEW YORK.

EXECUTIVE CHAMBER. }

In accordance with the statute in such case made and provided, the

HONORABLE JOHN R. PUTNAM,

a Justice of the Supreme Court of the Fourth Judicial District, is hereby designated as Associate Justice of the General Term for the Third Department of the Supreme Court from and after the seventh day of December, A. D. 1891, in the place of the Honorable Judson S. Landon who has been designated as Associate Judge of the Court of Appeals, Second Division.

Given under my hand and the privy seal of the State, at  
[L. s.] the Capitol in the city of Albany, this twenty-eighth  
day of November, A. D. 1891.

DAVID B. HILL.

By the Governor.

T. S. WILLIAMS,

*Private Secretary.*

STATE OF NEW YORK.

EXECUTIVE CHAMBER. }

In accordance with the statute in such case made and provided, the

HONORABLE CELORA E. MARTIN,

a Justice of the Supreme Court of the Sixth Judicial District (re-elected), is hereby designated as Associate Justice of the General Term for the Fourth Department of the Supreme Court from and after the first day of January, A. D. 1892, his previous designation as Associate Justice being about to expire because of the close of his official term on December thirty-first, 1891.

Given under my hand and the privy seal of the State, at  
[L. s.] the Capitol in the city of Albany, this twenty-eighth day  
of November, A. D. 1891.

DAVID B. HILL.

By the Governor:

T. S. WILLIAMS,

*Private Secretary.*

STATE OF NEW YORK. }  
EXECUTIVE CHAMBER. }

In accordance with the statute in such case made and provided,  
the

HONORABLE CHARLES C. DWIGHT,

a Justice of the Supreme Court of the Seventh Judicial District (re-elected), is hereby designated as Presiding Justice of the General Term for the Fifth Department of the Supreme Court from and after the first day of January, A. D. 1892, his previous designation as Presiding Justice being about to expire because of the close of his official term on December thirty-first, A. D. 1891.

Given under my hand and the privy seal of the State, at  
[L. s.] the Capitol in the city of Albany, this twenty-eighth day  
of November, A. D. 1891.

DAVID B. HILL.

By the Governor:

T. S. WILLIAMS,  
*Private Secretary.*

STATE OF NEW YORK. }  
EXECUTIVE CHAMBER. }

In accordance with the statute in such case made and provided,  
the

HONORABLE LORAN L. LEWIS,

a Justice of the Supreme Court of the Eighth Judicial District, is hereby designated as Associate Justice of the General Term for the Fifth Department of the Supreme Court from and after the first day of January, A. D. 1892, his previous designation as Associate Justice for said department being about to expire.

Given under my hand and the privy seal of the State, at the  
[L. s.] Capitol in the city of Albany, this twenty-eighth day  
of November, A. D. 1891.

DAVID B. HILL.

By the Governor:

T. S. WILLIAMS,  
*Private Secretary.*

PROCLAMATION ORDERING A SPECIAL ELECTION  
IN THE THIRD ASSEMBLY DISTRICT, ALBANY  
COUNTY.

STATE OF NEW YORK. }

EXECUTIVE CHAMBER. }

WHEREAS, Due notice has been given of the death of William E. Murphy, who was duly elected to the office of Member of Assembly for the Third Assembly District of the county of Albany, on the third day of November, 1891; and

WHEREAS, His right of office has ceased before the commencement of the term of service for which he was at that time elected; and

WHEREAS, It is provided by the laws of this State that in such a case a special election shall be had;

*Now, therefore*, I, David B. Hill, Governor of the State of New York, in pursuance of the requirement of section 10, title 2, chapter 6, part 1 of the Revised Statutes of this State, do hereby order and proclaim that an election for Member of Assembly, in the place of the said William E. Murphy (the term of whose office will expire on the 31st day of December, 1892), be held in the Third Assembly District of the county of Albany, on Wednesday, the 23d day of December, 1891, such election to be conducted in the mode prescribed by law for the election of Members of Assembly.

Given under my hand and the privy seal of the State, at the Capitol in the city of Albany, this twenty-eighth day  
[L. s.] of November, in the year of our Lord one thousand eight hundred and ninety-one.

DAVID B. HILL.

By the Governor:

T. S. WILLIAMS,

*Private Secretary.*

APPOINTMENT OF AN EXTRAORDINARY SPECIAL  
TERM OF THE SUPREME COURT.

STATE OF NEW YORK.

EXECUTIVE CHAMBER. }

IT APPEARING to my satisfaction that the public interest requires it,

*Therefore*, in accordance with the statute in such case made and provided, I do hereby appoint an Extraordinary Special Term of the Supreme Court to be held at the court-house in the city of Syracuse, county of Onondaga, on Tuesday, the first day of December, 1891, at ten o'clock forenoon of that day, and to continue so long as may be necessary for the disposal of the business that may be brought before it; and I do hereby designate the Honorable Morgan J. O'Brien, a Justice of the Supreme Court, to hold the said Extraordinary Special Term of the Supreme Court.

And I do further direct that notice of the appointment aforesaid be given by publication of this order once in the Albany *Daily Argus*, a newspaper published at the city of Albany.

Given under my hand and the privy seal of the State, at the Capitol in the city of Albany, this twenty-eighth  
[L. s.] day of November in the year of our Lord one thousand eight hundred and ninety-one.

DAVID B. HILL.

By the Governor:

T. S. WILLIAMS,

*Private Secretary.*

IN THE MATTER OF GEO. G. COTTON, CLERK OF  
ONONDAGA COUNTY.—OPINION, AND ORDER OF  
REMOVAL FROM OFFICE.

STATE OF NEW YORK.

EXECUTIVE CHAMBER,

ALBANY, December 3, 1891. }

*In the Matter of the Charges preferred against George G. Cotton,  
Clerk of Onondaga County.—Opinion.*

The Constitution imposes upon the Governor the duty of seeing “that the laws are faithfully executed.” To carry out that object the statutes empower the Governor to remove sheriffs, county clerks and other officers upon charges of misconduct in office. One of the charges preferred against this county clerk alleges that in the distribution of ballots at the recent election in Onondaga county the county clerk either designedly or negligently mixed the Republican ballots, so that the secrecy of the ballot was virtually destroyed. The “Ballot Reform Law” requires that all the ballots, Republican, Democratic, Prohibition, Socialist-Labor, and all others, shall have a uniform endorsement which is specifically prescribed. The number of the district is a part of the endorsement which must appear on each ballot. The proper number must be stated. The statute expressly forbids the counting of any ballot not containing the endorsement prescribed. The evidence conclusively establishes the fact that in nine election districts of that county the Republican ballots which were distributed for use bore upon the backs thereof the wrong number of the district where they were respectively voted. This error occurred only in reference to the Republican ballots. The other ballots were correctly endorsed. The effect of this mistake was that every elector who cast a Republican ballot was known. It destroyed the secrecy of the ballot. It enabled the inspectors

and watchers also to know who did *not* vote the Republican ticket, as well as those who voted it. The tickets so voted were clearly illegal and void. The error is a vital and material one. Upon the question whether such ballots can legally be counted depends the election of a Senator and one Assemblyman. The error cannot, therefore, be regarded as a trivial one.

Those ballots were mixed in their distribution, either designedly or negligently. It is impossible to arrive at any other conclusion. It makes no difference whether the clerk acted from design or with gross negligence. Neither the county clerk nor his deputy, nor the one employee who was sworn, is able to account for the error. The county clerk admits under oath that it is a strange coincidence that the mistake occurred only in reference to the Republican tickets. He cannot explain it. Yet it occurred in his office and in regard to the performance of a duty which he was expressly charged by law to perform.

The Ballot Reform Law imposes vast and important duties upon county clerks. Upon their integrity and vigilance depend the legality and secrecy of our elections. The ballots must be properly distributed. Carelessness cannot be tolerated or condoned in such matters. The negligence in this case is scarcely denied, because reasonable diligence would have prevented any mistake. The Ballot Reform Law must not be permitted to be broken down by the corruption or indifference of public officials. County clerks throughout the State should understand that their duties in connection with the enforcement of this law cannot be trifled with. It is really unnecessary to consider any other question involved in this case. The evidence discloses the fact that the county clerk refused to certify and attest the statement of the result of the canvass for Member of Assembly as determined by the board. It was his duty so to do when requested. He was the mere secretary of the board and he had no right to set himself up in opposition to the board and to refuse to certify their action. His duties were ministerial and clerical. As well might



the Secretary of State refuse to countersign a pardon or commission issued by the Governor upon the absurd ground that the pardon or commission was improvidently or unwisely issued.

Such acts of disobedience and insubordination are contagious. It is understood that the county clerk of Dutchess county has done the same thing, and it is notorious that the whole State canvass is awaiting that clerk's pleasure.

The respondent Cotton urges that he was directed by Mr. Justice Kennedy not to attest the certificate until he permitted him to do so. Such a mere verbal direction is not a defense. It was not an "order" within the meaning of the law. It was without jurisdiction and void. There was no mandamus or any other legal order of the court in force to prevent his obeying the request of the county board of canvassers. If every clerk of a canvassing board throughout the State can stop the whole election machinery of the State, our election laws are a farce. But it is really not necessary for me to place my decision upon this ground and I do not do so.

A plain case requiring the removal of the respondent is established and an order to that effect will be made.

DAVID B. HILL.

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STATE OF NEW YORK.

EXECUTIVE CHAMBER. }

*In the Matter of the Charges preferred against George G. Cotton,  
Clerk of Onondaga County.—Order of Removal.*

Charges of misconduct in office having been heretofore formally presented to me, and a copy of the said charges having been served upon the said George G. Cotton personally and an opportunity given him to be heard in his defense, and he having appeared in this proceeding and filed an answer denying the charges alleged, and after hearing the proofs which have been submitted in behalf of the prosecution to sustain such charges,

and after hearing the proofs and explanations offered by the said George G. Cotton in refutation of such charges, and after hearing P. B. McLennan, Esq., of counsel for the said Cotton, in opposition to such charges, and W. B. Gannon, Esq., of counsel for the prosecution, in favor thereof, and it appearing, after due consideration of the testimony taken and the arguments of counsel, that the said charges are substantially true;

*Ordered*, that the said George G. Cotton be and he hereby is removed from the said office of clerk of the county of Onondaga.

Given under my hand and the privy seal of the State, at the Capitol in the city of Albany, this third day of  
[L. s.] December in the year of our Lord one thousand eight hundred and ninety-one.

DAVID B. HILL.

By the Governor:

T. S. WILLIAMS,

*Private Secretary.*

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IN THE MATTER OF THEO. A. HOFFMAN, CLERK  
OF DUTCHESS COUNTY. — NOTICE AND SUM-  
MONS.

STATE OF NEW YORK.

EXECUTIVE CHAMBER. }

*In the Matter of the Charges against Theodore A. Hoffman, Clerk  
of the County of Dutchess.*

*To THEODORE A. HOFFMAN, Clerk of the County of Dutchess:*

YOU are hereby notified that charges of misconduct in office have been preferred against you, and a copy of such charges is herewith served upon you.

You are hereby further notified that you will be afforded an opportunity of being heard in your defense in answer to such

charges before me at the Executive Chamber in Albany on Saturday, December 5th, 1891, at nine o'clock in the forenoon.

In witness whereof I have hereunto signed my name and affixed the privy seal of the State, at the Capitol in the city of Albany, this third day of December in the year of our Lord one thousand eight hundred and ninety-one.

DAVID B. HILL.

By the Governor:

T. S. WILLIAMS,

*Private Secretary.*

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IN THE MATTER OF THEODORE A. HOFFMAN, CLERK  
OF DUTCHESS COUNTY.—OPINION, AND ORDER  
OF REMOVAL FROM OFFICE.

STATE OF NEW YORK.

EXECUTIVE CHAMBER,

December 5, 1891. }

*In the Matter of the Charges against Theodore A. Hoffman, Clerk of  
Dutchess County.—Opinion.*

This is a plain case. The evidence conclusively establishes wilful and persistent official misconduct on the part of the accused. It shows that the board of canvassers of Dutchess county, on the 23rd day of November last, duly completed their official canvass of the votes cast at the recent election, by the passage of a resolution declaring a certain result. There is no question about the passage of such a resolution. A statement to that effect showing the result of the canvass was signed by the chairman and was presented to the clerk to be attested by his signature. The statute (1 R. S., sec. 9, p. 391) requires the clerk to attest

it. He has no discretion. He is not a member of the canvassing board and is not responsible for its proceedings. He is simply required to certify its action, whatever may be the result. He is required to certify what has *actually* been done—not what in his judgment *ought* to have been done. He performs a ministerial duty and that is all. Yet the clerk refused to attest the statement. The board passed a resolution respectfully requesting him to certify to the statement, but he again refused. He acted deliberately and intentionally, and under the advice of the Republican counsel. He assumed to judge for himself as to the correctness of the details of the canvass. It was for the courts and not for himself to determine whether concededly “marked ballots” should or should not be counted. He refused to act at his risk. He violated the law and defied the board, and must accept the consequences. He refused to file the statement in his office, and yet afterward certified, or permitted his deputy clerk to certify, for the use and benefit of the Republican counsel, that it had been officially filed in his office; but he kept the same locked up in his safe and not open to inspection.

He also refused to send to the Secretary of State, as required by law, a certified copy of the statement of the official canvass, within five days after the adjournment of the board. When the Secretary of State sent a messenger to him requesting a copy of the statement, and which the clerk was bound by law to furnish, he refused to comply with the request. He even denied in his letter to the Secretary of State that any such statement had been officially filed.

His actions were deliberate and carefully planned. He intended to delay action to give his own political friends such time and opportunity as they desired.

During the official canvass the clerk repeatedly refused to comply with the directions of the board in minor matters, and by reason thereof charges were preferred against him: but I ignored them until his recent conduct.

Upon the hearing before me it was intimated that if the clerk was then willing to comply with the law and to promptly transmit to the Secretary of State the statement duly attested by him, the charges against him might not be further pressed, but he obstinately refused to promise any compliance whatever with the statute.

This proceeding for his removal has no effect upon the mandamus case. It neither helps nor hurts it. His action is not justified or excused by Judge Barnard's subsequent order directing a re-count by the canvassing board. The clerk had no right to anticipate that decision. He could not usurp the functions of the court. His duty was plain and explicit, and for partisan reasons and to serve partisan advantages he refused to perform it.

He was a candidate for another term at the recent election, but was defeated. He was not elected, even if the fraudulent "marked ballots" had not been thrown out, and the ends of justice, as well as the best interests of the State will be subserved by his removal and the appointment of his successful competitor for the remainder of the present term.

County clerks throughout the State must be given to understand that they are only ministerial officers and not above the law, and they must carry out the plain provisions of the statute in election matters as well as in every thing else, regardless of political considerations or consequences.

My duty to remove this official is plain and I shall promptly perform it.

DAVID B. HILL.

STATE OF NEW YORK. }  
EXECUTIVE CHAMBER. }

*In the Matter of the Charges against Theodore A. Hoffman, Clerk  
of Dutchess County—Order of Removal.*

Charges of misconduct in office having been heretofore formally presented to me, and a copy of the said charges having been served upon the said Theodore A. Hoffman personally and an opportunity

given him to be heard in his defense, and he having appeared in this proceeding and filed an answer denying the charges alleged, and after hearing the proofs which have been submitted in behalf of the prosecution to sustain such charges, and after hearing the proofs and explanations offered by the said Theodore A. Hoffman in refutation of such charges, and after hearing Hon. J. Rider Cady, of counsel for the said Hoffman, in opposition to such charges, and Hon. John W. Hogan, of counsel for the prosecution, in favor thereof, and it appearing, after due consideration of the testimony taken and the arguments of counsel, that the said charges are substantially true;

*Ordered*, that the said Theodore A. Hoffman be and he hereby is removed from the said office of clerk of the county of Dutchess.

Given under my hand and the privy seal of the State, at the Capitol in the city of Albany, this fifth day of December in the year of our Lord one thousand eight hundred and ninety-one.

DAVID B. HILL.

By the Governor:

T. S. WILLIAMS,

*Private Secretary.*

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# CERTIFICATE OF ELECTION OF U. S. SENATOR DAVID B. HILL.

STATE OF NEW YORK.

EXECUTIVE CHAMBER. }

*To the President of the Senate of the United States, Greeting:*

In obedience to the statute of the United States, the Executive of the State of New York certifies that DAVID B. HILL, an inhabitant of said State and of the age of thirty years and upwards, and who had been nine years a citizen of the United States was, by the concurrent vote of the two branches of the Legislature of

the State of New York, on the twenty-first day of January, 1891, duly elected in conformity to the provisions of the Constitution and Laws of the United States a Senator to represent the State of New York in the Senate of the United States for the term of six years commencing on the fourth day of March, 1891.

Given under my hand and the great seal of the State of New York, at the Capitol in the city of Albany, this  
[L. s.] fifth day of December, A. D. eighteen hundred and ninety-one.

DAVID B. HILL.

By the Governor:

FRANK RICE,  
*Secretary of State.*

# DISMISSAL OF THE CHARGES PREFERRED AGAINST DISTRICT ATTORNEY PECK OF JEFFERSON COUNTY.

STATE OF NEW YORK.

EXECUTIVE CHAMBER. }

*In the Matter of the Charges against Frank H. Peck, District Attorney of Jefferson County.*

Charges of misconduct in office having been preferred against Frank H. Peck, District Attorney of Jefferson county, and a copy of said charges having been served upon said Peck and an opportunity given him to make defense thereto, and he having duly filed his answer denying the said charges, and it having thereafter been duly referred to Hon. Francis R. Gilbert, as Commissioner, to take testimony in support of and in opposition to said charges and to report the material facts which he deemed established by the evidence, and the said Commissioner having proceeded upon such hearing and taken the testimony which was

offered by either side and having made and filed his report, and after due consideration of said report and of the briefs and arguments submitted by the counsel upon either side, and it appearing that the material charges herein against the said Peck are not sustained, it is, therefore, hereby

*Ordered*, that the said charges against the said Frank H. Peck, District Attorney of Jefferson county, be and the same are hereby dismissed.

Given under my hand and the privy seal of the State, at the Capitol in the city of Albany, this ninth day of  
[L. s.] December in the year of our Lord one thousand eight hundred and ninety-one.

DAVID B. HILL.

By the Governor:

T. S. WILLIAMS,

*Private Secretary.*

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#### APPOINTMENT OF AN EXTRAORDINARY SPECIAL TERM OF THE SUPREME COURT.

STATE OF NEW YORK.

EXECUTIVE CHAMBER. }

It appearing to my satisfaction that the public interest requires it; therefore, in accordance with the statute in such case made and provided, I do hereby appoint an Extraordinary Special Term of the Supreme Court to be held at the Court-house in the city of Albany and county of Albany, on Wednesday, the twenty-third day of December, 1891, at two o'clock in the afternoon of that day, and to continue so long as may be necessary for the disposal of the business that may be brought before it; and I do hereby designate the Honorable Stephen L. Mayham, a Justice of the Supreme Court, to hold the Extraordinary Special Term of the Supreme Court; and I do further direct that notice of the ap-



pointment, aforesaid be given by publication of this order once in the Albany *Daily Argus*, a newspaper published at the city of Albany.

Given under my hand and the privy seal of the State at the Capitol in the city of Albany, this twenty-second  
[L. s.] day of December, in the year of our Lord one thousand eight hundred and ninety-one.

DAVID B. HILL.

By the Governor:

T. S. WILLIAMS,

*Private Secretary.*

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# GOVERNOR HILL'S ADDRESS

AT THE

LAYING OF THE CORNER STONE OF THE NEW ARMORY  
AT POUGHKEEPSIE, MAY 30, 1891.

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## SOLDIERS AND FELLOW CITIZENS :

Thomas Jefferson, in his first inaugural address, referring to the needs of our country, enunciated the sentiment that a "well disciplined militia is our best reliance in peace and for the first moments of war."

This important declaration from so eminent an authority in the science of government, inculcated a lesson and imposed a duty which have not been disregarded in the subsequent history of the country.

A jealous care and a fostering protection have ever characterized the interest which the States of our Republic have very generally manifested in the success of their militia. The great statesman's remark, founded, as it undoubtedly was, upon his observation and experience during the pioneer days of the Nation, conveyed a compliment to the impromptu soldiery of those times as deserved as it was significant.

It was indeed true that in that early period the "best reliance" both in peace and in war of the friends of liberty and of a free government was upon the zeal, the endurance, the courage, and above all upon the patriotism of its volunteer soldiers.

Words are wholly inadequate to express the world's appreciation of the bravery, the fortitude and the unselfish devotion to their country of those gallant and sturdy bands of fighting pioneers,

rendered illustrious in our early history and known and immortalized in legend and song as :

“ The old Continentals,  
With their ragged regimentals.”

Inestimable and praiseworthy, however, as were regarded the services of the yeomanry who constituted the rank and file of the militia during the infancy and early manhood of the Republic, and while their patriotism was unbounded and their personal heroism unsurpassed anywhere, yet it must be admitted that in strict military discipline and efficiency they could not excel and sometimes hardly approach the high standards reached by the citizen soldiery who compose the National Guard of to-day.

The fact cannot be disguised that there have been occasional periods in our history when the martial ardor of the people has been so lessened that ridiculous imperfection has been the rule and excellence the exception exhibited by the poorly equipped, ungainly uniformed, and scantily disciplined military forces of the various States. In those periods our militia were oftentimes deservedly the subject of ridicule, and their public appearance aroused merriment rather than awe and admiration. Nothing could be more comical than the pomposity and the unsoldierlike attitude occasionally assumed by a company of country militia, as they paraded with their captains and other officers about forty years ago in their gorgeous costumes on each annual “ muster day.”

The old-fashioned “ general training,” which many of us recollect, was usually made the occasion of a general good time where hilarity, hard cider and still harder ginger cake abounded, rather than much valuable instruction in military science. Those good old days were hugely enjoyed by the community in general, but it may be doubtful whether they contributed appreciably to the practical education and advancement of the troops themselves.

It may be observed that the feasibility of maintaining an efficient force of citizen soldiers in times of peace depends largely upon the martial spirit which pervades the people. War is the

necessary propelling force in developing that spirit. The war of 1812 revived revolutionary memories and stirred the hearts of the people with patriotic fervor, and militia companies were for many years thereafter easily recruited at every cross-roads. Then the reaction came and continued until the war with Mexico in 1846. That struggle, brief and glorious though it was, aroused the States from their lethargy, quickened the ambition of the young men for military fame, and renewed among all classes the martial ardor which had become dormant. Popular interest in military affairs was resuscitated, new organizations sprang into existence, and higher standards were realized. Then the country gradually relapsed again into the old condition, and the military spirit may be said to have reached its lowest ebb when the civil war came in 1861 — then naturally it was awakened with greater intensity than ever before. That tremendous contest, in which millions of soldiers were enlisted, in which millions of treasure were expended, in which nearly a million of lives were lost, and which continued for four long years — being the greatest conflict of modern times — where every hamlet, every church, every school-house, and nearly every home was a recruiting station for one side or the other — inevitably such a gigantic struggle called into activity all the patriotic emotions, the warlike sentiments, and the martial feelings of a free people. The spirit thus awakened has not yet subsided although over a quarter of a century has passed away. To its continued presence we are unquestionably indebted for the magnificent military organizations of citizen soldiers which are readily maintained in our own and numerous sister States, and which are justly regarded as the pride of the people, the reliance of the country and the safety of the States. So long as the present interest in military affairs engendered by the late war shall continue to be manifested, the task of preserving our forces in an efficient, useful and acceptable condition will be materially lightened.

The preservation of military ardor among the people does not mean the cherishing of unpleasant memories or the rekindling of

sectional animosities. The great soldier of Appomattox who lies buried in the soil of our own State and sleeps on the banks of the magnificent river which flows past your beautiful city, said "Let there be peace," and a patriotic and grateful people will respect his memory by obeying his injunction. No, the maintenance of a martial spirit among the masses does not require recriminations and heart-burnings, or the revival of sectional jealousies and differences, but it means the presence of genuine patriotism, the performance of the highest and best duties of citizenship, the exhibition of a kindly interest in all that pertains to military accomplishment and a true appreciation of military genius.

The prevalence of such a spirit does not endanger the peace of a State—it tends to ensure it.

In our own Commonwealth the old-fashioned militia of our fathers has passed away, and in its stead has come the organization known as the "National Guard of the State of New York." It is the Guard which belongs to the State, but is organized to protect the Nation as well. Its very name peculiarly signifies its character and purpose. It represents State rights blended with National unity. It is the reserve force of the National government. It is the Guard *of* the State and *for* the Nation. Its duties primarily relate to the State, and ultimately they affect the Nation. The Guard at the present time consists of four brigades, fourteen regiments, forty-six separate companies, one battalion, five batteries of artillery, one troop of cavalry, and two signal corps—in all about fifteen thousand well equipped, fairly disciplined, loyal, intelligent soldiers. They constitute an available force equal to almost any emergency. I know what I say when I assert that they are not mere holiday soldiers, only adapted for parades and reviews; but they thoroughly understand the use of fire-arms, they know how to shoot, to march, to retreat, to attack, and to defend. The camps of instruction at Peekskill and Creedmoor have not been established in vain, as the present state of proficiency of the whole National Guard of the State of New York amply attests.

It should always be remembered that our Guard is an organization of citizen soldiers, representing all classes, creeds and nationalities. It serves substantially without compensation from the State, the recreation enjoyed, the duty performed, and the honor conferred being regarded as sufficient recompense for the labors and responsibilities assumed. Neither should the proper functions of the Guard be misunderstood. Its true province in cases of public disturbance is not the performance of mere police duty, or the intimidation of workingmen in labor disputes, or the assumption of the duties which peculiarly appertain to a sheriff or peace officer; but its services are only to be invoked in aid of the civil authorities, for the prevention of violence, the preservation of the public peace, and the protection of property actually imperilled, where the civil authorities are unable to suppress the disturbance and require assistance. It is needless for me to add that the power to summon the military to arms is a most delicate and important responsibility, to be exercised with firmness and courage, but always with reasonable caution and solely in the public interest.

It may not be inappropriate to suggest that the discharge of military duty as a member of the National Guard as now constituted is well regarded as an honorable service. It is a guarantee of respectability and good character in a community. It is the indulgence of a laudable ambition. Associations are formed and friendships cemented which last through a life-time. The social features of the service should not be discountenanced, but on the contrary they should be encouraged.

The armories are better club-rooms for our young men than are the saloons.

The disposition manifested in some quarters to assimilate the National Guard as much as possible to the regular army of the United States is a mistake. There is a widespread distinction between the conditions of the two organizations which cannot safely be overlooked. Service in one is an occupation, a means

of livelihood, an enforced duty, a paid service; while membership in the other, composed as it is of our young men and best citizens, is chosen as a means of social enjoyment, physical culture, the gratification of their pride and the exhibition of a voluntary and genuine patriotism. In my opinion many of the methods of the regular army should be avoided rather than cultivated. The generally accepted assertion that a soldier is best when he most resembles a mere machine is an unwarranted conclusion, at least so far as our citizen soldiery is concerned. Physical courage, brute force, and unthinking obedience are not the requisites for the perfect or successful soldier; but intelligence, gentlemanly deportment, and loyal willingness are more essential. During our civil war it was demonstrated that the rough and uneducated element from our large cities did not make as efficient soldiers and did not endure the hardships and perils of the camp, the march or the battle, as well as the farmer boy, the merchant's clerk, the mechanic or the student. It is believed that intelligence is preferable everywhere in this free country of ours, and a true soldier is none the less such because he thinks, especially if he thinks honestly, conscientiously, loyally.

That it is the duty of the State to provide suitable armories for the use of its soldiers—a place for their instruction, discipline, recreation and social enjoyment—admits of no question; and that duty is being generously fulfilled. The beautiful and interesting ceremonies which we have just witnessed; performed under the auspices of that ancient and honorable order which we all, whether members or not, profoundly respect, and whose good deeds have been the admiration of the world for centuries, mark the initial steps toward the construction of an appropriate home for the two separate companies of the National Guard located here—two gallant organizations which rank among the best in the State and of which we are all justly proud. This outpouring of citizens and soldiers on this impressive occasion is a deserved tribute to their worth. The structure to be here erected will be dedicated to the



cause of good government, the preservation of the public peace, the majesty of the law, the protection of the citizen, and the triumph of social order.

It is not claimed that the obligation of the State is discharged when it simply provides the strong arm of a military force towards the maintenance of our free institutions. In spite of every such precaution and in the face of the greatest display of mere power, they may be undermined and destroyed through corruption, false doctrine, ignorance, or intrigue. These are the evils which should be securely guarded against. With every armory or arsenal erected for our soldiery there should be erected by its side some institution of learning. Let the armory and the school-house stand side by side in this country in the onward progress of civilization.

The army alone cannot save the country. There must be public and private virtue, the masses must be educated, respect for authority must exist, industry must be the rule and idleness the exception, righteousness must prevail; there must be contented homes and the exhibition of a pure and lofty personal patriotism — these are the essentials for the true prosperity of the nation and the preservation of our freedom.

The lamented and eloquent Grady, of Georgia, once beautifully said :

“The man who kindles the fire on the hearthstone of an honest and righteous home burns the best incense to liberty. \* \* \* The love of home — deep rooted and abiding — that blurs the eyes of the dying soldier with the vision of an old homestead amid green fields and clustering trees — that follows the busy man through the clamoring world, persistent though put aside, and at last draws his tired feet from the highway and leads him through shady lanes and well-remembered paths until, amid the scenes of his boyhood, he gathers up the broken threads of his life and owns the soil his conqueror — this — this lodged in the heart of our citizen is the saving principle of our government.

“We rate the barracks of our standing army with its rolling

drum and its fluttering flag as points of strength and protection. But the citizen standing in the doorway of his home — contented on his threshold — his family gathered about his hearthstone — while the evening of a well-spent day closes in scenes and sounds that are dearest — he shall save the Republic when the drum tap is futile and the barracks are exhausted.”

Permit me to suggest that during my seven years' service as Chief Executive of the State this is my first official visit to this locality. I have long desired the opportunity to inspect your public institutions, and to view the many evidences of your thrift, enterprise and genius, which are visible on every hand. Your city is the abode of science, charity, and learning, and is oftentimes called the “city of schools.” The magnificent bridge which spans yonder river is the unrivaled triumph of engineering art. You will pardon me for remarking that your far-famed Vassar College; for reasons unnecessary to mention, has especial attraction for me. One of the best charitable institutions of the State adorns your hillside. The excellence of your military schools is conceded. The indications of your wealth, industry, prosperity and good local government are evident everywhere.

My mission here to-day is one of mingled duty and pleasure. The duty is nearly performed and the pleasure which I had anticipated is saddened by the fact that as I glance around this assemblage among the many familiar faces I miss the countenance of one who was a distinguished resident of your city, a former State officer, an associate legislator of mine, my long-time personal and political friend — Judge Homer A. Nelson. Had he lived, how he would have enjoyed the exercises of this hour and been delighted with the spectacle which we are witnessing. A faithful soldier and official, an able advocate, an upright citizen, and a kind neighbor — I am sure you will excuse me for digressing to pay this brief and passing tribute to his memory.

I am reminded upon this occasion that one of my most distinguished predecessors, Governor John A. Dix, in October, 1874,

addressed a gathering of soldiers and citizens in this city at a review and reception which had been tendered him. There are doubtless those here present who recollect the occasion. It was at the close of an official tour which he had been making through the State, and after speaking in vigorous and appropriate language of the National Guard — its importance, its uses, its destiny — he thus generously referred to your own city of Poughkeepsie: "You have a large and thriving city, lying midway between our chief emporium and the capital, and upon the great line of river and railroad communication. You have around you a country which has, from the earliest period in the history of the State, been celebrated for its fertility, its rural beauty and its salubrity of climate. Your county has wielded a powerful and beneficial influence in the councils of the State. You have prospered mainly by your persevering industry. Your county has not rushed recklessly into expenditure. It is not suffering from an imprudent extension of your credit. \* \* \* There are few communities which possess in a higher degree, the elements of prosperity. That you may continue to prosper by a wise and prudent use of the means which Providence has bestowed upon you, is my sincere wish."

After the lapse of seventeen years, I take pleasure in adopting and reiterating the sentiment thus expressed, and in indulging in the further hope that some future Executive, as he visits your city and is the recipient of your hospitality in the years to come, may witness the full fruition of all our good wishes and the realization of all our fond expectations.

Soldiers of the Grand Army of the Republic — We are not unmindful of the fact that this is peculiarly *your* day — a day set apart by custom and by law for honoring the memory of your former comrades — the heroes who lost their lives in the struggle for the preservation of the Union.

It is Decoration Day! Its observance revives tender recollections, recalls the stirring scenes of 1861-5, reminds us of our obligations to the living as well as to the dead, impresses us with

the greatness and glory of our common country, and inspires us for the better discharge of our varied duties in the great conflict of life.

What can I say of this day which has not already been said? For over a quarter of a century poets have sung and orators have spoken their tributes in "thoughts that breathe and words that burn." No encomium of mine can add to the imperishable renown of the American soldiers who perilled their lives that the country might live. Their memories will not be forgotten and the story of their deeds need not be retold, for they will be read as long and as widely as though we —

"Could write their names on every star that shines;  
Engrave their story on the living sky,  
To be forever read by every eye."

# GOVERNOR HILL'S ORATION

AT THE

FOURTH OF JULY CELEBRATION AT GENEVA, N. Y.,  
1891.

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MR. PRESIDENT AND FELLOW CITIZENS :

\* \* \* \* \*

The Declaration of Independence was not the crowning or final act in the successful establishment of a free government, but on the contrary it was the formal inauguration of a revolution. The revolution was the first step and afterwards came the organization of the Republic made possible by the successful revolution. No eulogy of mine is needed to impress upon you or upon the world the grandeur of the great act of separation which solemnly and bodily emphasized and declared the fact "That these United States are, and of right ought to be, free and independent States."

It was one of the most sublime acts in the history of the world. It was a defiance of the greatest government on the face of the earth. It was an exhibition of courage and patriotism never before witnessed.

The sentiments expressed in the Declaration of Independence were not enunciated for time but for eternity. They are as true to-day as they were the hour they were first promulgated. They embody the essence of civil liberty. They constitute the sound basis of all free political governments. They embrace the fundamental principles of all human rights. For over a hundred years the genius of poets, the eloquence of orators, and the efforts of statesmen have been lavished in appropriate tributes to the wis-

dom and greatness of the noble and imperishable ideas, for the first time distinctly advanced in that memorable instrument.

On the soil of old Virginia there stands a plain and unostentatious monument upon which is engraved the inscription that it is erected to the memory of "Thomas Jefferson — the author of the Declaration of Independence." No king, potentate, or ruler ever had a grander testimonial than this. No other record of his invaluable services to his country was needed to perpetuate his fame. It will live as long as liberty itself shall live.

I observe that a distinguished and versatile orator, whom we all know and whose name I need not mention — one who speaks so frequently that he cannot be expected always to speak accurately — in one of his recent addresses omitted the honored name of Jefferson while including that of Hamilton as among the names of the few men of our country who will be remembered in future generations. With all due respect to his opinion I beg to differ with him.

In my judgment the country differs with him also. Neither is it believed that impartial history will accept his conclusion. Without disparaging the brilliant career and valuable services of Hamilton, somewhat limited and restricted though they were, Americans will never forget, and the rest of the world will readily concede, that Jefferson next possibly to Washington himself and far more than Hamilton, was the great and pre-eminent character of our early history.

We recall the fact that he was a conspicuous figure in the whole revolutionary struggle; that he was twice President of the United States and once Vice-President; the Secretary of State in Washington's cabinet, and Governor of Virginia; a leader in the Continental Congress; minister plenipotentiary to England and afterward to France; the father of the University of Virginia; the successful projector of the vast Louisiana purchase — involving the exhibition and triumph of the highest statesmanship. Of all our patriot fathers he was the most prominent and fearless advocate of a simple and popular form of government as against the

pretensions and tendencies of aristocracy; his manual of parliamentary practice was a notable contribution to the law and literature of his times, accepted to this day as authority in all legislative bodies; he was the founder of a great political party which has survived the vicissitudes of a century: but further and beyond these magnificent achievements which would ordinarily be accepted as evidence of the highest merit and the greatest renown among men and towering above them all, stands forth the salient and irresistible truth that his was the genius, his the brain, and his the patriotic courage which produced that masterly exposition of the rights of a free people which became the unassailable bulwark of the cause of the colonies throughout the whole revolutionary contest, and which startled the world by the boldness and grandeur of its conception.

When in the ages to come the Declaration of Independence itself shall have been forgotten, then will the glory and fame of its author be effaced but not before.

It is true that he did not lead armies or conquer countries, but he wielded a powerful pen, and we must recollect that there are critical times when "the pen is mightier than the sword;" it is true that he was not the keen, subtle and astute lawyer that Hamilton was, but he was more than a mere lawyer—he was a profound thinker and a sagacious statesman, whose ideas more than Hamilton's made their lasting impress upon the institutions of his country.

He was an honest reformer — not a mere professional one. The authorship of the statute of Virginia for religious freedom, and the measure forbidding the importation of slaves, were the work of his hands. He was the unyielding opponent of the centralization of dangerous and unnecessary power in the general government, and he was a firm believer in the sovereignty of the States.

He lacked the dash and meteoric brilliancy of Hamilton, but he was abler — sounder — safer. Hamilton was a debater, Jefferson was a scholar. The one was a pleasing orator, the other a

gifted and convincing writer. Hamilton was theoretical and his career was brief though phenomenal, while Jefferson was practical, and during a long life devoted to the public service he discharged varied and arduous administrative duties and performed such deeds as give men everlasting fame among their fellows.

It is said in defense of the discrimination which I have criticised, that Jefferson's name was omitted and a preference given to that of Hamilton, because the achievements of the former were not "constructive."

Surely a worse reason could hardly have been suggested. Certainly the popular estimate of Jefferson's strongest characteristic has been that he was a builder in the fullest and highest sense of the term. It is possible that the people may have been in error upon this point for a hundred years, but the discovery comes rather late. Jefferson was nothing if not constructive. A bare recital of what he accomplished refutes the proffered explanation. The statutes which he framed, the official messages which he delivered, the books which he wrote, the treaties which he negotiated, the institutions which he founded, the empire of territory which he annexed to his country, the essential principles of government of which he was the exponent, and the Declaration of Independence which he formulated — the anniversary of whose adoption we are celebrating to-day — all attest the variety of his attainments, the greatness of his character, and the imperishable nature of his achievements.

He was truly an extensive builder who builded not for an hour — but for generations.

It has been still further used as an excuse for the apparent slight put upon Jefferson that although he wrote the Declaration of Independence yet "the immortal phrase" wherein it is set forth "that all men are created equal" was itself untrue and materially detracts from the merit and permanent reputation of that act. The argument is unfounded. There may be other reasons which are plausible why Jefferson's fame, sooner than that of others,



may be obliterated from popular recollection, but this is not one of them.

It seems to be conceded that he coined a phrase which even his critics regard as "immortal" although they assume to regard it as unsound. It is to be regretted that it seems to be necessary at this late period of our history to enter upon a defense of the propositions contained in the Declaration of Independence, but these are peculiar times when scepticism of all kinds is abroad and nothing is safe from attack. The assertion "that all men are created equal" is unquestionably true in the sense in which it was there used. Jefferson was speaking of political rights and discussing the duties of governments. He intended to convey the idea of the equality of all men before the law. He was combating the theory of plutocracy — which had its eloquent advocates in those days as well as in these — and he was endeavoring to prove that the people had a natural right to govern themselves, and that one man had as much an inherent right to rule as another. He was at this time promulgating a theory rather than stating an actually existing condition. He realized as well as any one that the political equality for which he contended was not recognized by then existing governments, but he was seeking a remedy and asserting a general principle. The doctrine of natural equality among men in respect to the political powers of government and the obligations of citizenship, was in this sense a "self-evident" truth. He did not mean to create the impression that all men are created with equal capacities, with the same temperaments, and with similar opportunities or environments. There was no attempt to question the inscrutable and inexorable laws of nature which have decreed that there are and will ever be essential differences among men,— some strong, others weak, some wise, others foolish, men of different nationalities, dispositions, abilities and tastes; rich men and poor men, masters and servants, rulers and the ruled, the educated and the ignorant, the high and the low; and all these varied conditions of society are entirely consistent with the doctrine of the

political equality of all men in a free government where the people rule themselves.

Jefferson's contention was against the truth of the trite saying that some men are "born to command" except in the sense that they are thus entitled by virtue of the free suffrage of the people, coupled with the necessary ability, integrity, and wisdom. This is the reasonable and fair interpretation of the phrase in question.

In this rational view of the subject we may fairly conclude, notwithstanding the protest of the learned orator to whom I have referred, that Jefferson's position was correct; and we may safely continue to reiterate the truth of the declaration of the political equality of all men.

It has also been suggested in support of the claim that Jefferson will be forgotten by future generations and that Hamilton will be remembered, because it will be only "the student, the historian, and the antiquary, who will during all the centuries study the career of Jefferson," while the masses will be specially interested in Hamilton's life and services and will more readily recall his name and deeds. This would be passing strange if it were true. It is certainly not the generally accepted notion. Jefferson was emphatically the man of the people, the incarnation of Democracy in its broadest sense, the champion of larger liberty, the bitter enemy of aristocracy, and the author of the most important document in favor of popular rights which the world ever produced; and to think that the multitudes will ever forget their friend, their advocate, their deliverer, and all that he accomplished for them and for the generations which preceded them, during his long life devoted to the promotion of the people's welfare, and at the same time that they will recollect the lawyer, the logician, the financier, the reserved and dignified orator, whose efforts were never specially identified with the cause of the common people but were rather exerted against them — one who thought he rendered valuable assistance with others in the framing of the Federal Constitution yet never alone performed one conspicuous deed in behalf of the

amelioration of the masses to which popular attention has ever been directed; to ask us in the light of this exhibit to seriously believe that such results can occur, is an attempted imposition upon our credulity which we cannot contemplate except with impatience.

The philosopher, the critic, and the select few may in the ages to come recall Hamilton and overlook Jefferson, but it may be predicted with confidence that the masses—the great bulk of the community—the mighty populace who recollect few things, but recollect them well, will never — *never* forget the author of the Declaration of Independence.

John Adams, with prophetic vision, predicted the anniversary exercises of this occasion when on the day after the adoption of the Declaration he wrote his wife as follows: "Yesterday, the greatest question was decided that was ever debated in America, and greater perhaps never was or will be decided among men. A resolution was passed without one dissenting colony, 'That these United States are and of right ought to be, free and independent States.' The day is passed. The 4th of July, 1776, will be a memorable epoch in the history of America. I am apt to believe that it will be celebrated by succeeding generations as the great anniversary festival. It ought to be commemorated as the day of deliverance, by solemn acts of devotion to Almighty God. It ought to be solemnized with pomps, shows, games, sports, guns, bells, bonfires and illuminations, from one end of the continent to the other, from this time forward *forever*."

The Nation since then has generously responded in its efforts to fulfill this remarkable prediction. This day is the one great patriotic holiday of the whole country. All sections, nationalities and creeds can join in its festivities, and renew their sacred pledge of loyalty to their beloved land.

Appropriately then do we celebrate this anniversary. Every expression of rejoicing this day given is in honor of the patriots of the Revolution; every bell as it rang out on this morning air re-

mind us of the old bell in the belfry in Independence Hall at Philadelphia when it proclaimed the glad tidings that the Declaration had been signed; every rocket that shoots up to the heavens is in remembrance of the gallant officers who perished at Lexington and Bunker Hill, at Saratoga and Valley Forge, at Trenton and Yorktown, and on all the other memorable battle fields of the Revolution; every shot that is fired recalls the glory of the common soldier — the rank and file, who sleep in unknown graves; the martial music, the imposing procession, the parade of our citizen soldiery, every flag that is unfurled, every bugle note that is sounded, every song that is sung, and every eloquent word that is uttered — all these are tokens of our appreciation of the services and sacrifices of our revolutionary sires and of all the glorious memories of Independence day.

It is unnecessary to repeat in your presence the story of the American Revolution, because you are as familiar with it as household words. Next to the story of the Saviour it is the first one you teach your children to read. It sounds like a romance. It partakes of some of the features of a legend. It is a tale of resistance to unjust exactions; of opposition to "taxation without representation;" of the struggle of a brave people of thirteen colonies seeking to be free; of the effort to establish the right of revolution for just cause; of an unequal contest of right against might for seven long years; of numerous bloody battles and serious defeats; of many privations, hardships and woes; it is the narrative of a cause which produced a Washington to lead its armies; a young LaFayette to bring succor and assistance from across the waters; a Franklin to give counsel; a Jefferson to defend with his voice and pen; it is the account of courage, heroism, and fortitude unsurpassed in the annals of time. It tells of an army crossing the Delaware amid snow and ice, and of the retreat of half-starved patriot soldiers with bare feet and bloody tracks; of the capture of Ticonderoga "in the name of the Great Jehovah and the Continental Congress;" of the intrepid Putnam's great

leap from the rocks; of the famous exploits of "Marion's men;" of the valor of "Mad Anthony Wayne;" of the shameful treason of an Arnold at a critical period of the contest; of the decisive battle at Saratoga in the north and the subsequent surrender of the English army under Cornwallis at Yorktown in the south; of the evacuation of New York; of the final glorious triumph of the Continental armies; of the recognition of our Independence and the establishment of a free Republic—this is the epitome of the Revolution.

Of what has since followed the whole world knows—and has looked on—and wondered! The success which has attended the experiment of a free representative government where the people choose their own rulers; where the citizen has the largest individual liberty consistent with the peace and good order of society; where the liberty of the press exists; where the writ of *habeas corpus* is recognized; where unreasonable seizures and searches are forbidden; where the right of trial by jury is preserved; where no man can be deprived of life, liberty and property without "due process of law;" where a man's home is regarded as his castle; where there is no established religion but perfect freedom of conscience is tolerated; where manhood suffrage prevails; where education is substantially free and universal; where the humblest citizen may aspire to the highest position in the gift of the country—the success of such a government challenges the admiration of the world and furnishes a proud example for liberty-loving people everywhere. It is evident that the leaven of freedom is at work. The Republicanism of the United States has been "like a beacon light upon a hill," which after it has diffused its warmth immediately around it also tinges the distant horizon with its glow. The trend of the time is our way. The South American countries are following in our wake. The Republic of France has come to stay. The people of Russia, the largest connected empire of the world, are restless under the iron hand of a Czar, and the road to Siberia is constantly filled with political exiles. Germany is sus-

picious of the designs of its ambitious young Emperor, and its people are carefully inquiring the way to secure governmental reforms. The dark-featured Spaniard is cautiously seeking for larger liberty. Great Britain is disturbed with the ceaseless demand of "Home Rule" for Ireland, while the recent disclosures connected with the famous game of "baccarat" have shocked the people and made them impatient of royal rule.

Fellow citizens: In spite of the croakings of pessimists, the machinations of anarchists or the scoffs of our enemies, we may proudly boast that ours is the best government the sun ever shone upon. It is a unique nation—a Union of States—States "divided as the waves, united like the ocean."

I am reminded that this celebration has a twofold character and a double significance. It is the fiftieth anniversary of the day on which a train of cars first passed through your village, an event then of momentous importance to you and one now of peculiar historical interest. There are undoubtedly many in this gathering who distinctly recollect the occurrence. How remarkable have been the changes which have taken place since that date! Geneva was then a small village whose enterprising citizens were filled with hopefulness and pride over the splendid prospects of their beautiful and growing municipality. Their hopes have been reasonably realized, and to-day it is almost a city in population and extent. Admirably situated at the foot of one of the most picturesque and magnificent lakes on the continent, with a fertile country surrounding it; with unsurpassed railroad, lake and canal transportation facilities at your very doors connecting you with the commerce of the country and the world; with your population, wealth and resources rapidly augmenting; with energetic and public-spirited men to push ahead every laudable enterprise; with excellent institutions of learning—notably your venerable and far-famed Hobart College, a credit to your town and an honor to the State; with your numerous church spires pointing to the heavens attesting the religious character of your people; with the hundreds of elegant

residences which adorn these streets; with a sober, industrious, law-abiding people, occupying happy and contented homes, I am inclined to believe that Geneva possesses unusual advantages and may well be regarded as "The loveliest village of the plain."

Geneva should be a patriotic municipality because it was incorporated by the Legislature in the patriotic and eventful year of 1812.

It enjoys the proud distinction of having entertained the great French soldier and patriot, the friend of America—General La-Fayette—in the year 1825, when he was upon a visit to this country. The records show that the reception was a brilliant affair, conducted with dignity and attended by the whole surrounding community. The same generous hospitality so courteously tendered the gallant Frenchman at that early day has ever been characteristic of the treatment accorded its guests by the wholesouled citizens of this progressive village.

I need not weary you with a recital of the interesting events of your own local history, because you are entirely familiar with them—more so than myself. I do know, however, that this village and the grand old county of Ontario, of which it is a part, have given to the State and to the country many distinguished citizens—celebrated lawyers, able divines, and prominent statesmen, as well as others who have reflected honor upon their respective callings. I miss upon this occasion the familiar face of one, loved and respected by you all, who for many years adorned the Senate of our State, who graced the Chief Justiceship of our highest Judiciary, and honored the cabinet of a President—your lamented fellow citizen, Judge Charles J. Folger. Able, honest, and faithful, he discharged every duty in private life and public station with fidelity and rare good judgment. He was proud of this village as his home; he sought its prosperity and contributed to its good name; he loved its shady streets, the waters of yonder lake, the hillsides in the distance, and all the beautiful scenery that surrounds this historic spot. Had his life been spared how gladly he would have united with his old friends and neighbors in the

festivities of this hour. This being my first visit to this locality since his decease I cannot resist this appropriate opportunity to pay this brief but deserved tribute to his memory.

Since the advent of the first train of cars in your midst what wonderful progress has been made in the development of our system of railroads. Fifty years ago there were but 374 miles of railroad in the whole State, while to-day we have 7,590 miles of railroad in actual operation. In 1841 there were but 3,500 miles of railroad in the United States, while this year the grand total amounts to over 160,000 miles. When we reflect that the first railway charter granted in this State was in 1826 to the "Mohawk and Hudson River Railroad Company," which constructed the first railroad from Albany to Schenectady and began to operate it in 1831, and remember what has been accomplished since then, we begin to realize the unprecedented strides which have been taken in the matter of public improvements during the last century.

An amusing incident is related in reference to the trains which were run in those early days. The accommodations for operating a railroad were few and there was not always a full supply of fuel. One day a train stopped along the roadside in your county, and without asking any questions took on "somebody's wood." The next day, when the express train was rushing along at ten miles an hour, it was stopped by an old lady standing upon the track waving her apron. The conductor asked "what's up?" The old lady replied that the conductor owed her two dollars for wood, and she wanted her pay. She succeeded after some parleying in getting her money, and as the train moved on she cried out to the conductor, "When you are out of wood, call again."

This was a novel method of collecting a debt, and somewhat more expeditious than the present means of making railroad corporations recognize their just liabilities. I commend it to the consideration of our modern attorneys.

I have no panacea to present to you for all the ills which pertain to our body politic. The country is already surfeited with



the prescriptions of a peculiar class of political physicians who always diligently seek to impose their nostrums upon you. It is amusing with what sublime confidence and assurance they press their remedies upon your attention and unhesitatingly guarantee complete relief. It is true that they have generally had no practical experience in public affairs, nor any official responsibility in the administration of public trusts; and while seldom successful in the management of their own private business, yet they entertain no doubt of their capacity to manage the government—they believe that they can cure others even if not themselves. The problems of finance which perplexed a Hamilton and a Gallatin present no difficulties to them; the tariff question, which has divided parties in this country for over sixty years and wrecked more politicians by its varying phases than any other question, has no complications in their eyes; the evil of a surplus or a deficiency in the public treasury matters not to them—they can easily remedy it; they have no hesitation, doubts or misgivings as to the proper course of procedure on any great governmental matter, and are intolerant of the opinions of cautious and conservative men who do not assume to know it all; they endeavor to monopolize every new idea which some thoughtful man has advanced; and they flourish on the ills, the discontent, and restlessness of a busy and fickle people.

I would advise you to beware of the recipes of these political quacks. They have neither your welfare at heart, nor the welfare of the country. They are not really independent men who think and act for themselves, leaders of great popular movements, who have honest and sincere opinions and are fearless in their expressions—such characters I profoundly respect—but they are many of them *dependent* men—men who largely depend upon the credulities, adversities and misfortunes of the people to bring them into notoriety; men who agitate for agitation's sake alone; men who are so weak and helpless that they want a paternal government to aid and care for them; men with personal axes to grind

and advantages to reap; men who, while loudly proclaiming their disinterestedness, are actuated by even more selfish motives and ambitions than are incident to our common humanity. The new fangled political patent medicines of the hour which are offered to us on every hand deserve to be carefully scrutinized before we swallow them. The old constitutional remedies of our fathers may perhaps be better for us after all.

That there are serious evils which afflict our political system cannot well be denied. Wrongs and abuses exist which require the most skillful treatment and careful consideration. It is the province of true statesmanship to eradicate them. Genuine, honest and practical reform in the administration of the government is the demand of the hour. Our efforts should not be wasted in the formulation of mere theories or in endeavoring to accomplish the absurd or impossible. The unscrupulous or mischievous modern philosophers who vainly propose to benefit mankind by the remarkable feat of abolishing all poverty, may possibly enrich themselves and their deluded followers become poorer. We should learn wisdom by the experience of the past. It is believed that what the country wants to-day is a return to the simple methods of administration of our fathers. We should not seek to make the government stronger—but purer. Let us preserve the sovereignty of the States and retain the reserved rights of the people. Let the general government assume no doubtful power, but permit the States to regulate their internal and domestic concerns in their own way. This is the best republicanism—it is also true democracy.

The people should be relieved from unjust burdens by the collection of no greater revenues than are actually necessary to meet the expenses of the government economically administered. The power of taxation should be exercised for public and not private purposes. We do not need an enormous surplus, we do not want a deficiency.

We should still welcome the honest emigrants to our shores,

those who sincerely desire to become good American citizens and to make this country their happy home; but the anarchists, the paupers, and the criminal classes should be absolutely prohibited.

We should have a just, sound and stable currency, adequate for the business interests of the country — the money of the Constitution, gold *and* silver — not one to the detriment of the other, but both metals. The masses of the people have no interest in common with the few who may desire to see the country suffering under the paralysis of “hard times,” and to have money scarce and confined to a single metal. It is of course understood that for convenience a circulating medium convertible into coin without loss is always desirable.

Economy in public expenditures should be the watchword. This is not the time for the indulgence of extravagance either in public or private station. The people of the State are to be congratulated on the fact that the tax rate for the coming year in this State will be the lowest it has been for thirty-six years,—a welcome boon to overburdened taxpayers.

As a relief from the abuses of partisanship, the determination of contested election cases, involving the election of members of our State Legislature and of representatives in Congress, should be vested exclusively in the courts.

Municipal and local elections should be separated from State and Presidential elections.

Special and private legislation should be still further restricted. Equal taxation should be the aim, with few, if any, exceptions. We want no privileged classes in this country.

Manhood suffrage should be preserved; voting should be regarded as a duty rather than a privilege, and should be made compulsory.

Our system of country highways should be improved.

The public holidays of the people should never be surrendered, as they will become more and more appreciated as time rolls on.

These are some of the practical suggestions which have occurred

to me and which I have thus summarized and present for your consideration on this patriotic occasion. They are not "warranted to cure," and their observance or adoption may not produce the political millenium in either the State or Nation, but they are designed for the benefit and relief of the people, and we may indulge the hope that they are capable of ensuring better government.

Fellow Citizens: The exercises of this day serve to impress upon our minds a sense of the responsibility and duties of citizenship which devolve upon this generation. The defense and preservation of the free institutions of America are obligations which we cannot escape. The eyes of the world are upon us. For over a hundred years this country has run the glorious race of empire. We are in the lead, but the struggle is still on.

We must not forget the solemn and beautiful sentiment and injunction of Daniel Webster when he said in one of his grandest orations: "This lovely land, this glorious liberty, these benign institutions, the dear purchase of our fathers, are ours; ours to enjoy, ours to preserve, ours to transmit. Generations past, and generations to come, hold us responsible for this sacred trust. Our fathers from behind admonish us, with their anxious, paternal voices, posterity calls out to us from the bosom of the future, the world turns hither its solicitous eyes—all, ail conjure us to act wisely and faithfully in the relation which we sustain."

Let us distinguish our discharge of the trust reposed in us by the performance of deeds worthy to be remembered. Let us not endeavor to win laurels by war. Brighter than any which we can hope to secure in this field have all been gathered by our fathers. Let us seek to make this period a time of peace, an era of improvement, an age of reason. Let beneficent acts and philanthropic works abound everywhere. Let us excel in moral excellence, in the development of our resources, in the spread of education, in the promotion of religion, in the advancement of the arts, and the cultivation of a fraternal spirit. Let this be the era

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of good feeling, of higher standards, of broader purposes, and larger conception of duties.

I thank the President of our country for his patriotic utterances on his recent memorable trip throughout the South and West; and I was rejoiced to observe that he was everywhere received with unusual demonstrations of respect and unquestioned evidences of loyalty to the great government of which he is the honored Chief Executive. His words were most timely and do infinite credit to his heart and judgment.

This is a fitting time for a revival of true, genuine love of country. It is true there is no great foreign or national question pending, calculated to stir the people and arouse their pride, but excitement is not absolutely essential to the development of unselfish interest in the public welfare. At this quiet period of our national existence when our people are not distracted with contention or disturbed by prejudices, and are intently engaged in their business pursuits; when they are enjoying a reasonable abundance of the common blessings of life; when they are reaping the benefits and advantages of a free government, the cornerstone of which is Equality; when "Labor and art are adorning and science is exalting the land that religion sanctified and liberty redeemed," there can be no more appropriate hour for the manifestation of our gratitude and the expression of our appreciation of the heritage which is ours. Our energies need not be wholly bended nor the resources of our people overtaxed, to build up immense armies and strong navies with which to render our country invincible in war. When that time comes, if it ever does, let us put forth our mighty strength, but only in a just and righteous cause, and then we can say as the elder Adams said of the struggle of the colonies, "we shall not fail. The *cause* will raise up armies; the *cause* will create navies."

On this day devoted to noble purposes and worthy deeds, with the glorious memories of the Revolution clustering about us; while recalling the early history of the country with its tribulations, dan-

gers and sacrifices, and then its subsequent progress, development, and strength, and all the wonderful achievements of the past, and foreshadowing the bright destiny of the future, let us resolve to preserve the existing fraternity of the States, to prevent the rekindling of the dying embers of sectional strife, and to promote the prosperity of the whole Union ; let us sacrifice upon the altar of our country every unworthy ambition ; let us check every rising hostility, put aside every selfish motive and sink every narrow prejudice in the exhibition of a widespread and lofty patriotism.

## CONVICT LABOR.

REMARKS OF GOVERNOR HILL TO A DELEGATION OF  
CITIZENS OF TROY, AT THE EXECUTIVE CHAMBER,  
ALBANY, JULY 23, 1891.

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The subject of the employment of convict labor is not a new one, neither is it free from difficulties. Formerly the State used to let out the services of its convicts by contract to private persons. This, for various reasons, was regarded as objectionable. When I was a member of the Legislature in 1871 I introduced a bill abolishing the contract system, and made a speech in its favor. The bill passed the Assembly, but failed in the Senate. Subsequently public attention became more aroused upon the subject, and the Legislature of 1883 submitted the question of the abolition of the contract system to the people, who voted by a large majority in favor of its abolition.

The next Legislature passed a statute doing away with the contract system, but neglected to provide any other system to take its place. The only alternative was the employment of the prisoners on State account. For several years in my annual messages I urged the Legislature to devise a more comprehensive and satisfactory system for the proper employment of convicts, but the Legislature neglected to do so. Finally, agitation resulted in the Legislature of 1888 failing to make any appropriation for the carrying on of convict labor in the prisons. An extra session necessarily was called in that summer, and a bill was passed which substantially prohibited all convict labor except for the making of articles to be used by the State itself in its various institutions. I permitted the measure to become a law, at the same time stating

in a memorandum, which was filed, that it was a mere temporary expedient and would not be feasible or satisfactory to the taxpayers.

Then the reaction soon came, because the prisoners were left in idleness and the prisons ceased to be self-supporting. Then followed the Fassett (so-called) Prison Bill of 1889, which repealed the Yates law of 1888, and only partially regulated the employment of convict labor. I approved the measure because it seemed the best that was obtainable from the Legislature at that time, but the bill was far from satisfactory. In my memorandum of June 6, 1889, I stated as follows: "The provisions as to labor in the prisons are manifestly the result of a compromise between conflicting interests and cannot be entirely satisfactory to any one. In my judgment, too much power is vested in the Superintendent of State Prisons. The Legislature should have itself determined definitely the exact system of labor which the State proposes or desires to adopt, instead of having shifted that responsibility upon a State official. The bill should have provided one consistent and adequate system of labor for all the penal institutions within the State. I should have preferred that the bill should have carefully protected the interests of free labor."

Subsequent events have confirmed the views then expressed. The act of 1889 was not adequate to solve the prison-labor problem. It protected some industries and left others subject to competition, and among those left unprotected is the collar and shirt industry.

Last winter the Assembly promptly met the public demand for some relief and passed a bill for the protection of this industry, but the Senate refused its concurrence. The failure in the Senate to give the measure that proper consideration which it deserved is to be regretted. It seems that competition in the Clinton Prison bears heavily on this industry, and some relief is desired. In the first place, it is clear that the Legislature itself should have determined the question, and its failure to do its duty is the cause of



all the difficulty. The Superintendent of State Prisons is bound by the existing law to keep the convicts employed at some labor. He cannot escape that duty. He does not make the laws. When he selects a certain trade in which to employ convicts there must necessarily be more or less competition which must arise in that trade. That is unavoidable. He should avoid unnecessary competition. Of course each trade naturally desires to protect itself. The trades should be diversified as much as is consistent with making the prisons reasonably self-supporting. The Superintendent is all the time between two fires — the taxpayers on the one hand, who insist that the prisons shall be self-supporting, and upon the other hand the workingmen, who object to any competition whatever. He should pursue a conservative course. This I am sure he intends to do.

I am opposed to a restoration of the contract-labor system in the State prisons. I do not wish to see repeated here the scenes and difficulties which are being experienced in Tennessee to-day. It is safe to say that the old contract system will not be revived. The people insist, however, that the prisoners should not be kept in idleness. That fact has been demonstrated over and over again, and it is foolish and unwise not to recognize it. In the absence of further legislation, the Superintendent of State Prisons should exercise a sound discrimination protecting outside labor as much as possible consistent with his duty to keep the convicts employed and to prevent undue loss to the taxpayers.

In conclusion, permit me to say that whatever I can legitimately and consistently do to influence that result will be done, not simply because you request it, but because it is right and accords with the sentiments which I have long entertained. I have no power in the premises. I can simply suggest and advise. The Superintendent of State Prisons is supreme in his department, the same as any other of the State governmental departments. The Governor has no power to issue an order, or to make any direction in the premises. He can exert his influence and that is

all. I will refer the papers and arguments which you have presented to the Superintendent, requesting him again to consider the subject and take such action as he may consider just and proper in the premises, to the end of making a satisfactory adjustment of the matter so far as he may be enabled to do so, under existing laws consistently with his duty.

# REMARKS OF GOVERNOR HILL

ON THE

OCCASION OF THE RECEPTION OF THE COMMANDER-IN-CHIEF OF THE GRAND ARMY OF THE REPUBLIC, AT ALBANY, AUGUST 10, 1891

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MR. CHAIRMAN AND FELLOW-CITIZENS:

I accepted the invitation of the committee to participate in the festivities of this occasion, from a sense of duty as well as a matter of pleasure.

The patriotic and benevolent organization known as the Grand Army of the Republic has contributed much to the well-being and glory of the Empire State and is an organization of which we are all justly proud, and some special recognition of the honor conferred upon our State at this time, through the recent action of that body, seemed to be most timely, and if my presence could add any thing to the success of this demonstration I felt under obligations to attend in behalf of the State which I have the honor to represent.

My official and personal relations with the officers and members of the Grand Army, during many years, have been of the most pleasant and agreeable character. You well know that I have had no grievances to present against that body and no criticisms of its conduct to offer. I have the most profound respect for the brave and worthy men who constitute its membership, and I do not disguise the fact that my sympathies are in substantial accord with the grand, beneficent and just results which they are striving to secure. Besides I am not unmindful of my personal obligation to the

local Grand Army posts of this vicinity, as I recall the fact that in January, 1889, they voluntarily paraded in their full strength on the streets of this capital city on the occasion of my second inauguration as Governor of this State. I feel that I should indeed have been ungrateful had I declined their courteous request to speak a few words this evening.

But aside from any mere question of duty I am rejoiced to be afforded the opportunity of being present to welcome the new Commander-in-Chief of the Grand Army of the Republic, whose personal friendship I have enjoyed for many years. No soldier before me can take a greater pleasure than I do in the well-deserved promotion which has fallen to the lot of our esteemed fellow-citizen Captain John Palmér. We know him to be a gallant soldier, a faithful citizen and a true friend. An honor has been conferred upon him which has been coveted by some of our ablest and most brilliant soldiers, and I have no hesitation in predicting that he will fill the high position with credit to himself and honor to the city and State in which he resides.

We rejoice because we feel that a good man has been suitably rewarded. We are pleased because a plain captain has been chosen rather than a general. We are rejoiced because an honorable man, taken from the ranks of labor, has received a deserved promotion — a most proper and significant tribute to the dignity of labor.

We are especially gratified because the high honor has been conferred upon a citizen of the State of New York.

The State bids the new Commander-in-Chief hearty welcome to his home.

Many words are unnecessary to-night. This imposing demonstration, the magnificent parade upon the streets, the outpouring of the people, the music of the bands, the booming of the cannon and this brilliant assemblage of happy countenances and bright eyes, all bespeak a greater welcome than any words can express.

The position to which our neighbor has been chosen is one of

vast responsibility and influence. It will be his high aim to keep the Grand Army up to its present standard of efficiency; to increase its power for usefulness; to preserve it from the evils of faction and partisanship, and to make it a grand and conservative force for good in the community.

The people hope that the Grand Army may live as long as the Constitution of our country shall survive, and they trust that the Constitution may live forever.

Commander-in-Chief Palmer: The State of New York extends its hearty welcome to you, as the official head of the Grand Army of the Republic — and we bid you thrice welcome as a gallant soldier, a citizen-neighbor — and friend.

#### COMMANDER-IN-CHIEF JOHN PALMER'S RESPONSE.

[From the *New York Tribune* of Aug. 11, 1891.]

“With all the fulness of a grateful heart I thank you for this demonstration and evidence of your kind feeling toward me. I do not take this great compliment entirely to myself, but as an expression of your ratification of the great honor that has been paid to one of your citizens of the capital city of this great Empire State. I have found that the hearts of the people of our city have been responsive to the calls that have been made upon them in the interest of the veterans, and it is evident that Governor Hill joins in your gratification that the Empire State should have been honored by having the Commander-in-Chief of that great organization chosen from among her citizens. Within the ranks of this great organization are to be found men of every religion, denomination and political faith — each were willing to give their lives to save the Union, and to-day are enrolled in the same order. The man who is unwilling to accord to a political opponent full credit for any service he may render the veteran lacks appreciation, and is without gratitude and is not a good American citizen. I here desire to acknowledge publicly my obligation to Governor Hill for the many generous favors extended to the veterans at my

solicitation — both as a representative of the Board of Trustees of the New York State Soldiers' Home and in my representative capacity as a Grand Army man. In all my experience I have never found a man in the executive chair who was more ready to help the veteran than David B. Hill.

"I desire to extend to you one and all my grateful appreciation for this grand reception and evidence of comradeship and good will. To your fidelity and earnest work I am indebted for the place which you congratulate me to-night for holding. For the first time in twenty-four years New York State went to the National Encampment with a delegation solid for one man, and it is nineteen years since New York State furnished that grand organization with its official head."

In conclusion, Captain Palmer said: "We have no animosity against the men whose valor we tested upon many battle-fields, for when we came from the battle-fields we joyfully left all such behind and are brethren once more. My every endeavor shall be to faithfully discharge the duties of my office with honor to you, my comrades, and credit to myself."

## GOVERNOR HILL'S WELCOME

TO

PRESIDENT HARRISON AT ALBANY, AUGUST 18, 1891.

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MR. PRESIDENT :

The limited time at your disposal here renders it appropriate that I should express the sentiments of the people of the State in the fewest words possible.

The citizens of the Empire State receive you with profound respect and greet you with the greatest pleasure on this occasion, not only because you are the honored Chief Magistrate of the Nation, but because of their appreciation of your high character and eminent public services.

They are delighted that you have seen fit to honor us with your presence to-day. They recall with interest your many patriotic speeches during your recent memorable trip in the South and West, and their desire to see and listen to you has been intensified.

I do not intend to longer postpone the gratification of their wishes, but shall content myself with simply saying that in behalf of the State of New York I tender you a cordial and sincere welcome.

# GOVERNOR HILL'S REMARKS

BEFORE THE

CENTRAL LABOR UNION OF BUFFALO, ON LABOR DAY,  
SEPTEMBER 7, 1891.

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MR. PRESIDENT AND WORKINGMEN OF BUFFALO :

It is needless for me to suggest that I am gratified to meet the workingmen of Buffalo on this interesting occasion. For several years I have been the recipient of your invitation to join with you in the exercises of Labor Day, but not until the present year have my engagements permitted an acceptance. It is always a pleasure for me to visit this great and thriving city, the third in population in our State, magnificent in its proportions and unexcelled in its possibilities, endeared to me by numerous pleasant associations, as well as the fact that it is the home of many personal friends.

It is perhaps especially felicitous that my official visit here, which will be my last one as Chief Executive of the State, should be as the guest of the workingmen and upon an occasion devoted to the celebration of a holiday in the establishment of which you were the earnest promoters, and the propriety of whose creation received my official recommendation and whose validity was confirmed by my official approval.

I am sure that neither of us has had cause to regret our joint participation in the accomplishment of that result, but on the contrary, so far as I am concerned, I shall always regard my action with pride and gratification.

On this festive day devoted to leisure, recreation, amusement and reflection, including the consideration of questions pertaining



to the interests of labor, we may appropriately survey the present field of industry, and note the changes which have been wrought, as well as the substantial progress which has been made in the direction of the promotion of the welfare of workingmen. A review of the favorable legislation which has been enacted during the past few years may prove interesting. It is believed that a few friendly suggestions as to the future will not be ill-timed. If any sentiments which I may express shall afford a better understanding of the relations between capital and labor, or pave the way to some practical relief and benefit for the laboring classes, or stimulate any one to the performance of just or generous actions in labor matters,—the exercises of this hour will not have been in vain.

First a word as to the day itself.

#### LABOR DAY.

For several years prior to 1887 the workingmen in different parts of the country had been accustomed to observe some day in the year as one peculiarly their own, which they by common consent set apart for pleasure, the parade of labor societies, and public addresses on industrial topics. There was no uniformity in the day selected and the custom was by no means general. At last public sentiment seemed to acquiesce in the request that special recognition should be made of such a day by having one specially set apart and made a legal holiday, and after some conflict of opinion the date selected was the first Monday of September in each year, and in 1887 the Legislature passed such a measure which was promptly approved by the Executive, and "Labor Day" became a legal reality. The propriety of such legislation was severely criticised by a portion of the public press. It was urged that there was no necessity for any such additional holiday; that it was a misnomer to call a day of leisure a "Labor Day;" that it was a species of class legislation inspired by demagogues; that the reaction would surely come when the offensive measure would be repealed. You remember that its first observance was received with derision in some quar-

ters. Each year, however, has witnessed an increasing interest in its celebration; other States have adopted it; the people are gratified with its novel and interesting features; and it is safe to say that no portion of the community would now venture to seek its repeal.

The day is now observed by nearly all classes of the people in all sections of the country, and it has taken its place among the established holidays of the land. It properly marks the close of the usual vacation season and ushers in the year of work. The State is not in any danger of injury from too many holidays, and such a one as Labor Day is not merely the indulgence of a sentiment but ought to be a powerful reminder of the common interests of capital and labor, of employers and employes, of rich and poor, of fortunate and unfortunate.

#### THE SATURDAY HALF-HOLIDAY.

The establishment of the Saturday half-holiday marks an important step in the progress of labor amelioration. It is possible that it was somewhat in advance of public sentiment at the time, since at the very next session after its inauguration the Legislature with a fickleness characteristic of legislative bodies and influenced in some degree by an unreasonable clamor in certain quarters, proposed a virtual repeal of the statute although it had received a trial of only a few months. The Executive, sincerely believing in the wisdom and public beneficence of the measure which he had originally recommended and approved,—and refusing to be swerved from his convictions—vetoed the repeal bill. His action met with much criticism at the time, but its propriety has become gradually apparent, as from that year to the present there has been no serious effort to again seek a repeal. It may now be safely predicted that the Saturday half-holiday is an institution which has come to stay. The hostility which formerly existed is slowly disappearing; the business public is becoming accustomed to its inevitable inconveniences; and the people are reasonably satisfied with its opera-

tion. It is true that it has not been the boon which many anticipated, and many classes are as yet unable to avail themselves of its provisions, because there are practical difficulties which have not been overcome. During the summer months, however, especially in our large cities, it has been very generally observed and greatly appreciated by nearly all classes of the people. It was hoped by its most enthusiastic friends that the effect of the innovation might be to afford to all those who labor, whether by the month or day's work, or otherwise, a half-holiday's recreation, without any diminution of their wages usually received for a full week's work. This could only be done by common consent and was a consummation greatly to be desired, but such a result has not been generally secured so far as those who work "by the day" are concerned, who, more than all others, need the recreation as well as the full compensation; but nevertheless there are large classes of workingmen and workingwomen engaged in divers employments and working by the month or year, who receive the full benefits which were anticipated would ensue from the establishment of such a holiday. This much at least has been accomplished — any employe, whatever vocation he follows, feels at perfect liberty to ask that he be permitted to cease work and enjoy the half-holiday at his own expense without any danger of dismissal or censure, and such requests are usually granted as a matter of course, without complaint or objection. It very properly seems to be taken for granted that the privilege should now be afforded, under such circumstances, as a matter of right, while not many years ago it would have been refused or at most conceded with reluctance and at rare intervals.

The success of the Half-Holiday Law, like that of any other new law which conflicts with or disturbs long-established customs and notions, depends largely upon public sentiment for its general observance according to its true spirit. The best of laws will become dead letters upon the statute books if after a fair and reasonable experiment the concensus of an enlightened public opinion is against the propriety of their enforcement. The observance of the Satur-

day half-holiday or any other holiday cannot necessarily be universal, because the practical conditions of society prevent it. The business and social world must be kept constantly moving, and some occupations from their very nature are so exacting, important or peculiar, and the exercise of their functions so essential to the public welfare, that much recreation for those who follow them seems impracticable. But this circumstance does not detract from the general utility of the holiday itself. It seems to be decreed as indispensable that some must work while others play, and if thousands by reason of the environments which surround them are unable except occasionally to share in the advantages of such a holiday, while other thousands who labor and are differently circumstanced, can readily avail themselves of its benefits, the usefulness and beneficence of the law would seem reasonably well assured and the wisdom of its enactment may well be deemed to have been vindicated.

Of course it is not to be expected that "the man of leisure" will appreciate the importance of such a holiday. His whole life is a matter of recreation, but with those who toil nearly every day for their daily bread the few holidays which they are permitted to enjoy are sweet oases in the great desert of their existence and should be guarded and preserved with a jealous care.

It is often said that governmental concessions and popular privileges when once granted are seldom retracted, but while this may be true, much often depends upon the earnestness and vigilance with which they are defended.

The subject of the reduction of the hours of labor is one entitled to respectful and serious consideration. It is a question which cannot well be ignored and in some of its different phases it is always before us. Its agitation has existed for years, varying in intensity at different periods, relapsing into obscurity at times and then breaking forth again with renewed interest. It is evident that it is a question which cannot be effectually disposed of until it has been wisely solved, and its solution presents one of the important problems of the hour.

There is an irrepressible conflict always in progress between the forces demanding the greatest exactions from labor and those insisting upon the least.

Recreation is of course not the "chief end of man," and while the desirability of some relaxation from continuous daily toil should not be exaggerated and while idleness should be deplored and labor is always honorable, yet on the other hand the fact must be recognized that the necessity for the arduous toil which characterized former days does not now exist. We need not work either as many hours or as hard as our fathers worked before us, and because we are not quite so laborious as they were we are not thereby guilty of any disrespect toward our ancestors. Conditions are rapidly changing everywhere. Improved machinery, new appliances, and inventions of every kind operate largely to diminish the amount of manual labor heretofore required in many pursuits. We have a right to avail ourselves of all the modern improvements to relieve us from unnecessary drudgery.

All occupations have to a greater or less extent felt the influence of the reduction in the hours of labor which has been quietly and steadily going on in recent years.

Our public schools were formerly open six days out of seven, then the days were reduced to five and a half, and now every one is content with five days. Ministers in the old days used to preach three times every Sunday and now no one expects more than two sermons and few of us, I suspect, hear more than one.

Banks formerly kept their doors open from nine o'clock until four each day, and now they are open in the cities as a general rule only from ten till two o'clock. Business hours in almost every pursuit are everywhere much restricted. Public offices are allowed by law to be closed earlier than formerly. The early closing movement for our stores and shops has proved a decided success and was inaugurated none too soon. Mechanics and laborers generally formerly worked fourteen hours a day, then the hours were reduced to twelve, then to ten, and now the demand for a still

greater reduction is heard on every hand, and is attracting general attention.

The regulation by statute of the hours of labor is a matter not free from practical difficulties. Corporations which are the creatures of the law can be controlled to a certain extent, but regulation by custom and public sentiment, alike applicable to individuals as well as to corporations, would seem to be more effective in the long run. The trend of the times is in the right direction and while laws may facilitate the accomplishment of right results, sometimes they are more speedily produced by an appeal to reason rather than to law — to agitation rather than to legislation.

What number of hours shall constitute a day's work is a question which it is not an easy task to satisfactorily determine. It is difficult to establish a general rule applicable alike to all occupations and all localities. Some occupations from their very nature require longer hours of service than others, and to whatever general rule there may be established there must inevitably be numerous exceptions. This much may be safely asserted, however, that every workingman should be afforded a reasonable opportunity to become acquainted with his family, some time for reading, some for shopping, some for amusement, and some for reflection. In some of our large cities, not many years ago, there were workingmen who were unable to see their children awake scarcely oftener than once a month, because they were obliged to leave for their work at five o'clock in the morning, they took their dinner with them and could not arrive at home until the children had retired; and they worked every day, Sundays included, except possibly one Sunday in each month. Such instances were numerous among those connected with work on the street railroads of cities, but I rejoice to say that there has been much change for the better lately.

In every well-regulated community every honest and industrious workingman ought to be able to earn a decent and respectable living. He ought also to be afforded an opportunity to make more than a mere living — to lay up something for a rainy day, some-

thing for sickness, old age, or misfortune. He has a right to expect more than a mere existence on earth. The birds of the air and the beasts of the field get enough for existence, but humanity deserves more and requires more. The idea is not intended to be conveyed that it is one of the duties of government to provide work for its citizens, because I do not believe in what is known as a "paternal" government; but the thought which I desire to impress is that society owes a duty to itself to afford every possible facility to working people in their efforts to improve their condition, to readily and cheerfully yield to their every just demand, and to encourage in every reasonable way every thing that tends to add to the dignity of labor. Permit me in this connection to reiterate the sentiments which I expressed in my annual message to the Legislature in 1887 as follows: "The dignity of labor can best be preserved by insisting that labor should be better compensated. Increased compensation will furnish greater facilities for education, more comfortable homes, more contented families and better opportunities for recreation, as well as tend to develop nobler aims and purposes on the part of workingmen, greater interest in the peace and prosperity of the State, and higher ideas of citizenship. Poverty is one great source of discontent. Overwork, poorly recompensed, is another."

Let me add another suggestion right here. Let us be reasonable in our clamor for cheap things. It is natural that we should desire to obtain whatever we need at fair rates, but we should be careful not to insist upon prices so moderate that the interests of labor will be jeopardized. "To live and let live" is a good motto, which may be safely followed in all pursuits. Do not insist upon a newspaper so cheap that the proprietors are unable to pay a fair compensation to the printers who set the type, and to the reporters and editors who furnish the copy. We expect cheap transportation, but the engineers, firemen, brakemen, switchmen, trackmen and other laborers connected with the operation of railroads, should be well paid, and while exorbitant rates should not be permitted to be de-

manded for the transportation of passengers and freight, we should be satisfied to allow ample charges to be collected.

I was going to suggest that something should also be reserved for the directors—but upon reflection I think the directors will look out for themselves.

If we demand an elegant, well-fitting suit of clothes, we should not grumble at paying a liberal price for it to our tailor. If we want a handsome residence we should not be reluctant in paying a generous sum for it, because the carpenters, the masons, the decorators, the painters, the furnishers, and the laborers all need comfortable homes and cannot secure them unless they receive a fair compensation for their services. Parsimony should not begin with the professions either. Never employ a cheap lawyer, a cheap doctor, or a cheap minister, simply because they are cheap. They are likely to lead you astray, as cheap advice is apt to be bad advice.

Let us endeavor to raise the standard of excellence in every calling and educate the people to a better and higher conception of the doctrine that the laborer is eminently worthy of his hire. This does not mean the other extreme—extravagance, prodigality or wastefulness, but it means for all the interests involved in labor the recognition of liberal compensation and generous treatment.

While the general rule may be conceded that there is no excellence without great labor, yet the number of hours employed is not always the true test by which to determine the value of what is produced. Much depends upon the skill, the competency, and the faithfulness of the workman himself.

I have no new views to suggest upon the much-debated question as to what number of hours out of the twenty-four should properly constitute a day's work for the ordinary mechanic or laborer. My sentiments were fully expressed in an address which I had the honor to deliver before the Chautauqua County Fair at Dunkirk as long ago as September 18, 1886, in which, after an elaborate discussion of the subject, I came to the conclusion that "eight hours of labor



—four in the forenoon and four in the afternoon, followed up all the year around (Sundays and holidays of course excepted), ought to be sufficient to enable any workingman to live, and are all that he ought to be required to perform.”

Subsequent reflection has only confirmed the conviction then expressed. I have watched with interest the operation of the eight-hour system wherever it has been adopted in the construction of public buildings in the State, and there seems to be but little diversity of opinion that its results have been satisfactory.

Its general adoption and ultimate success must depend largely upon an enlightened public sentiment to which an appeal may always be made with confidence in a cause based upon the principles of equity and fair dealing.

It is an interesting fact which I am told will be stated in the forthcoming report of the Commissioner of Labor Statistics, that 119 labor organizations of the State, comprising 31,191 members employed in different occupations, report a reduction in the hours of labor during the year 1890. This shows the tendency. Public sentiment favors the eight-hour movement. Over 500 labor organizations in this State have declared in favor of it. Clergymen, newspapers and public men are supporting it, and employers will soon learn that reasonable hours of labor mean better workmen, more work and greater consumption of products than unreasonable hours of labor.

For many years large numbers of the workingmen of the country, acting upon the old adage that “in union there is strength,” have been engaged in the formation and maintenance of labor organizations for the avowed purpose of increasing their power, influence and usefulness. So far at least as numbers are concerned the movement has been an astonishing success. It embraces substantially the members of all the trades, especially in our cities. It must also be admitted that these organizations have reasonably succeeded in accomplishing the purposes of their creation. Some of them have been failures, but such are exceptions to the general

rule. That they constitute an immense power for good or for evil, there can be no question. That their influence has thus far been exercised in the main for the material benefit and advancement of the interests of workingmen, cannot well be disputed by fair-minded men. That mistakes have sometimes been made — grave and serious ones — the members themselves will not deny. But upon the whole, after a careful survey and comparison of all the struggles, difficulties, failures and triumphs of recent years, it is apparent that the net result is that the condition of the laboring man has been greatly improved since the formation of these organizations. Their charitable and benevolent features, wherein suitable provision is made for the sick and poor and for the relief of the families of deceased members, are patterned after the mutual aid societies and deserve the highest commendation. The features which provide for mutual protection and co-operation in the enforcement of what are regarded as their rights, especially in regard to hours of labor, wages, employment and discharge of men, number of apprentices, as well as rules and regulations pertaining to work, are those which naturally receive the most criticism and provoke the most comment from those whose interests are adversely affected. The value of trade organizations, like that of all other associations where men organize for mutual advantage, depends in a large degree upon the honesty, ability, and unselfishness of their management. Where vast power is vested, vast responsibility is imposed, and the conscientious manner in which that responsibility shall be discharged by those who officially control the actions of such organizations, determines the true worth thereof and shapes their ultimate destiny. They will be short lived if their powers are prostituted to ignoble purposes. They will long survive in honor and usefulness if they are the instruments of good deeds. Labor unions in unworthy hands can be made the engine of oppression, extortion, and corruption: they can sow the seeds of discontent; they can breed mischief and encourage violence; they can inflict serious injury without

righting a single wrong; they can become intolerant, overbearing and offensive; they can make extravagant and unreasonable demands, and by the mighty power of organization they can temporarily compel submission to their behests. But when so conducted they lose the respect and confidence of the great conservative public and soon degenerate into mere instruments of malice and conspiracy.

On the other hand they are capable of the accomplishment of beneficent results; they can protect the weak from imposition; they can secure the adoption of reasonable hours of labor; they can compel the payment of fair and living wages; they can enforce prompt payment of the compensation which their members have earned; they can prevent undue exactions from unscrupulous and unfeeling employers; they can require the concession of proper rules and regulations under which labor is to be performed. The great underlying principle upon which all labor organizations are based is that an injury to one is an injury to all. This principle seems to be indispensable to their existence. The proper enforcement and defense of that principle requires the exercise of the greatest discretion and good judgment. There is nothing essentially peculiar or unprecedented in the adoption of such a doctrine. The government of the United States — the best form of government which the sun shines upon — exemplifies the same theory, because the invasion of a single State is regarded as an attack upon the whole, and it is the duty of the general government to intervene when assistance is asked. A labor union is a sort of general government of its own, and its members in this respect are analogous to the States of the Union. The practical enforcement of this cardinal principle upon which both governments and labor organizations are based, oftentimes leads to hardship, suffering and a multiplicity of contests, but such results are inevitable to such a system. It may be difficult to explain to some why a workingman in Buffalo should cease work and leave his employer because of a real or imaginary grievance of some

workingman in San Francisco against some other employer, but there does not seem to be any other method of effectually demonstrating the power of organization.

It follows that such demonstrations should not be invoked for light or trivial causes, nor for mere fancied grievances, but only where they may be necessary to protect some substantial right or to redress some serious injury. Before they are resorted to, every effort at conciliation and compromise should be exhausted. Strikes at best are a dangerous as well as a powerful remedy and their use should be avoided wherever possible. I am sure that these are considerations and sentiments which will meet the approval of all thoughtful men.

But "strikes" are no worse than "lockouts." They are both arbitrary, harsh and usually unsatisfactory methods of settling disputed questions. Both have undoubtedly been productive of some measure of good and both have been lamentable and disastrous failures at times. Nations should never resort to arms except as a last extremity—for the defense of the national honor or the protection of vast material interests where submission would entail disgrace or serious injury; and neither should individuals, acting together as an organized body, summon the whole power of the organization to an exhibition and test of its strength and endurance except in emergencies of the most critical character, where vital principles are involved or grievous wrongs are threatened. Organized strikes, when they are failures, injure an organization more than successful ones promote its prosperity. They disturb the business of the country; they exhaust the resources of each side; they paralyze growing industries; they render capital timid and labor sensitive, and they usually leave a bitterness and distrust behind them which require years to remove.

Arbitration, which does not necessarily mean compromise, can satisfactorily adjust nine-tenths of all the labor disputes which arise, provided the parties to the controversy on either side will permit their reason rather than their passions to control their ac-

tion,—if they will consult their true interests rather than their whims and prejudices.

It should always be remembered that, after all, the general interests of the employer and the employe are mutual. It is true that there must necessarily exist some conflicting interests as between themselves, but as against the great general public they occupy common ground. Take, for instance, a manufacturer and his workmen. They may differ as to the proper rate of wages, the number of hours of labor, the number of apprentices who may be appropriately employed, or as to details of shop management,—and all these matters must and can be settled by agreement—but both sides are interested in having the manufactured articles receive the highest market prices from the public; both are benefited by a prosperous business; both are opposed to outside interference in their affairs; both desire steady employment for the men and the mills, and both are seeking to subserve and advance their individual material welfare in a joint enterprise.

It goes without saying that, in order to preserve harmonious relations between them, there must be *mutual* respect and confidence. The employer who thinks that the respect and confidence should all be upon one side makes a fatal mistake; and the employe who in his assumed independence imagines that he is the sole master of the situation only deceives himself. The existence of labor organizations has clearly demonstrated what every intelligent man knew before, but which the general public did not seem to realize, that the terms under which labor is to be performed are a matter of agreement. The absolute right to *dictate* conditions does not exist on either side. It has cost much treasure, imposed much vexation, and produced much conflict to settle that proposition, but it now seems to be universally recognized.

No man is bound to employ another unless he desires to do so. No man is bound to work for another unless he so prefers. Each man may stand upon his reserved rights and do nothing. It may become inconvenient for both of them in the long run, but I know

of no remedy by *mandamus* or otherwise. The right of an employer to employ whomsoever he pleases, and to discharge whomsoever he likes, and whenever he prefers, may be an absolute or elementary right in the abstract, but its arbitrary exercise invites a conflict, when the propriety of the action is questioned by other employes, and ultimately the whole question of both employment and discharge becomes a subject of negotiation and contract. An abstract inherent right is one thing, but the policy and consequences of its exercise are quite another. A man has a right to shear a wolf, but permit me to suggest that it is a very dangerous undertaking.

It is submitted that it is the true province of a well-conducted labor organization to protect the rights, redress the wrongs and promote the genuine welfare of its members. If it honestly and sincerely confines itself to these functions, it becomes a blessing rather than a menace to society. Organized labor is never dangerous when it is pursuing the right path. Its chief endeavor should not be to escape the performance of its fair share of work. No honest workman will shirk his task or seek to protract it; and labor unions are not organized to facilitate any such unworthy effort.

While Liberty, Equality and Fraternity are among the watchwords inscribed upon their banners, yet it is not understood that any thing else is meant thereby than Liberty regulated by law, Equality controlled by merit, and Fraternity founded upon justice.

It is often urged, not without some force, that these associations are regarded more for the benefit of the inferior than the first-class workmen. It is argued that the latter does not need the protection or facilities which they afford,—that he can always secure plenty of work at good wages and is assured of fair treatment everywhere, while the former, unable to stand upon his own merits, must lean upon his fellows and share in their achievements. This may be a narrow or selfish view of the question, in which the duty of the

strong to assist the weak is entirely ignored. But it is not believed that the maintenance of the doctrine of Equality requires any workman to share his peculiar skill, ability and industry with another ; nor does it contemplate a division of compensation or even an uniformity of compensation. It is rather a worthy manifestation of the Christian principle of charity in a field where charity is most needed.

The assertion that "all men are created equal" must be accepted with some qualification. That all are naturally entitled to equal political rights — to equality before the law and in the exercise of all the functions of government, is unquestionably true. That is the corner-stone upon which our free government is founded. But it is not true that all men are equal in other respects. All are not equally endowed with natural gifts ; there are differences in capacity, as well as in temperament ; differences in mental endowments as well as in physical development ; differences in disposition, in thoughts, tastes, ambitions, and desires. Even members of the same family are not always upon an equal footing ; some are active, vigorous, and brilliant, and others are puny, weak, dependent, and dull ; they differ in ability, as well as in stature, and classes and communities differ as much as families. There are men of mark, of genius, and men of mediocre capacity, and there are thousands of the latter to one of the former. There was but one Michael Angelo, one Raphael, one Alexander, one Socrates, one Milton, one Webster, although the world has been filled with numerous sculptors, painters, philosophers, warriors, poets, and jurists. They had no rivals because there were no equals.

These variances of capacity, skill, and endowments of every kind — natural and acquired — necessarily evolve different productions, and hence the work of one man differs from another — the labors of one are more valuable and important than another — and it follows that the more meritorious work should receive and must inevitably receive in every well-organized community the

greater compensation. There are men who tell us in these latter days that there is injustice in all this, and seem to urge a doctrine from which it is to be inferred that they claim that all men should be equally compensated. It would seem to be clear that labor should be compensated according to its true worth, and not according to any fixed or arbitrary rule. It must be self-evident that that which requires the least skill or capacity, must necessarily receive the least remuneration. So it has always been, and so it will always be. You cannot change human nature nor overturn the elementary principles upon which society has been organized since the world began. The ordinary laborer upon the highway who works with the pick and shovel, while his employment is as honorable as that of the millionaire merchant or banker, yet, because it is the simplest kind of work and the easiest to perform, cannot expect to receive the same compensation as that of the skilled mechanic. The average mechanic, even with all his skill, lacks the genius of the artist, who, with pencil and brush, wonderfully portrays life and beauty upon the canvas, and rivals nature itself in his masterly productions, and the reward for the labors of these co-workers must necessarily differ.

It is as absurd as it is impossible to enforce the demand that all labor should be compensated alike. Even if practicable, it would level distinctions in the one place where distinctions may properly exist. There are good workmen, and there are poor workmen; there are ordinary mechanics and mechanics of exceeding skill; there are artists of genius and artists of medium capacity; there are eloquent ministers, whose words charm, interest, and instruct you, and there are others who are commonplace, whose dullness will lull you to sleep; there are able and eloquent lawyers, and there are only fair and passable ones; and it is evident that any system, society, or organization that assumes to place these variable talents upon a common plane in the matter of compensation, is based upon an illogical position, and it cannot eventually be successful. Such a system gives no advan-



tage to the good workman over the poor one ; offers no inducement for individual advancement, and stimulates no ambition ; it is founded upon an assumed equality among men which does not in fact exist, and is in the interest of the drones of every calling, rather than for the benefit of its intelligent workers.

The compensation for a given number of hours' labor must depend upon three facts: first, what kind of labor it is; that is, how much skill, genius, or ability is required in its performance; second, who is to perform it—its individuality; and third—and that which is as important as any consideration—the abundance or scarcity of such labor; in other words, the great underlying element of all labor, as well as trade, the element of "supply and demand," which, more than any thing else, controls all such questions.

I believe in trade organizations, as well as in farmers' alliances, and regard them, when discreetly and honorably conducted, as a valuable and legitimate means for affording desired mutual assistance and protection in all cases where their aid may properly be invoked. But these auxiliaries, however advantageous and beneficial they may be for some purposes, cannot change the inexorable laws of nature and the experience of the world. Men are differently constituted, and there is no fixed rule by which to measure, gauge, or determine their triumphs and their failures. One boy starts to school in the morning with a pin, and by judicious trading with his playmates, returns at night with a jack-knife in his pocket,—while another, with equal opportunities, who starts with a jack-knife, is unable to successfully compete with his fellows, and comes home with only a pin. As with boys, so with men in the great race of life, some will lose and others will gain, and there are no laws that can be passed that will prevent such a result. Those adventurers who are clamoring so loudly now for a "division of property" forget that they would undoubtedly require another division in a very few years. Who doubts if property were equally divided to-day, and every man, woman, and

child was given \$1,000, that in ten years there would be exhibited almost as much inequality in ownership as there exists to-day? The evils which affect our common humanity cannot all be cured by legislation. Good laws may aid us upon our journey on the road to wealth, and bad laws may retard us, but it should be understood that good, bad, or indifferent laws do not, of themselves, as a general rule, and especially in a free country like ours, make men either rich or poor.

There can be but little doubt that the general effect of labor organizations has been to increase the wages of laboring men. There may be exceptions in certain localities, but this is the general rule.

The present high rate of wages which the workingmen of this country enjoy cannot be attributed to tariff laws. They are not indebted for it to any political party. It is the result of their own ability, industry, sobriety and organization. This fact has been demonstrated over and over again.

In 1888 the Bureau of Labor Statistics of this State was engaged in collecting information on the subject of wages, and it issued circulars to all the manufacturers and labor organizations in the State requesting replies to various questions relating to labor matters. Among the questions were these—

1st. Is the prevailing rate of wages among men in your trade higher or lower than it was five years ago?

2nd. To what do you attribute the change, if any?

The replies received were summarized as follows:—Out of a total number of 2,816 replies received from manufacturers, 1,414 reported wages “same as five years ago,” while 842 reported them as higher, and but 207 or less than 8 per cent. reported them as lower. Seven hundred and seventy-one labor organizations took official action on the circulars sent them, and 500 of them replied that wages were higher, and that they attributed the increase solely to the effect of organization. Of the 2,256 manufacturers who reported wages as the “same” or “higher” than

five years before, 945 of them failed to answer the question as to the cause thereof, but of the 1,311 of them who did reply, 864 or over 60 per cent. attributed the increase wholly to the effect of labor organization. These facts speak for themselves and need no further comment.

In recent years thoughtful men have wondered whether a better understanding might not be reached between employers and employed, and between capital and labor, by the adoption of some system of co-operation. Experiments have been tried in Europe, and to some extent in this country, and the results have been somewhat diverse. The causes of failure where there has been failure, I have not time to discuss, but the success of some of the experiments is certainly encouraging and suggestive. It has been demonstrated, I think, that we cannot accomplish every thing by co-operation; and that expectation possibly has been the cause of the failure of some attempts in this direction. Co-operation among trades-unions for the cheaper purchase of the necessities of life has not always met with success for various reasons. But the conspicuous success which co-operation and profit-sharing have met in various places, notably in Paris, shows that there are great possibilities in the encouragement of such philanthropy.

In theory such co-operation seems to have a solid basis and to promise much good. Conflicts between capital and labor ought not to exist; will not the proper sort of co-operation remove causes of friction and promote harmony between them? Do not the interests of both employer and employe depend upon the joint effort of both? By making the employe a sharer in profits of his business under equitable arrangements, will not the employer secure better quality and greater quantity of work and avoid the labor controversies which now and then make such inroads on his capital? It seems to me that such a system offers great advantages both to those who hire and those who work, while by society as a whole it ought to be warmly welcomed, for

it would seem to secure a more equitable distribution of wealth and to bring about closer fellowship of man with man. It would improve greatly the condition of the wage-earner; it would give him comforts which he does not now possess, but more than that, it would tend to remove discontent and to hold forth opportunities which to the laboring classes are too often beyond reach.

I am not one of those who would in the least depreciate the energy, ability and industry of men who by honest means have built up great fortunes; if they have earned them fairly they are entitled to the luxuries they bring. But I believe that as conditions adjust themselves and humanity becomes more philanthropic, society will modify somewhat the doctrine of the survival of the fittest, will be reluctant to permit conditions to exist which give some men artificial advantages over others, and will realize more keenly than it realizes now the importance of elevating humanity by a closer and more cordial co-operation of rich with poor, of strong with weak, of fortunate with unfortunate.

There is, however, a practical as well as a sentimental side to this question. I have heard merchants complain that their clerks seemed to have no interest in their duties beyond the mere routine performance of them, and I have heard employers generally complain of a want of sympathetic devotion on the part of employes to the interests of those who hire them; and when these complaints have come to me I have wondered if the complainants themselves were not largely to blame. Could they not remedy this evil, which cannot fail to affect their business disastrously, by admitting their employes to some share in the profits of the business? Would not every clerk in a drygoods store under such an arrangement bring customers to the shop? Would not every wage-earner seek in every way to increase his employer's profits? If some of our great manufacturers, for instance, who by special advantages (not all natural) are able to make colossal fortunes, treat their thousands of employes as co-operators in these enterprises and stimulate their interest and industry by admitting them

to some share of the gains, would not long and expensive strikes be avoided and would not the community as a whole be more comfortable and contented? It seems to me that every undertaking, every great manufactory, every great shop, every great newspaper, every great railroad, which employs many men would find it profitable in the long run to avoid labor controversies, to increase earnings, to give greater satisfaction to the public, and to bring more general popular prosperity, by inviting the hearty co-operation of its employes. The best co-operation is not merely practical philanthropy; it is also practical business.

It is especially gratifying to me as my term as Executive of the State draws to an end to reflect that in the last seven years some substantial and practical results have been obtained in the interest of labor. The Labor Holiday and the Saturday Half-holiday Law I have already alluded to. But these laws are only two of the many practical measures of relief which have been secured.

For the purpose of providing for the amicable adjustment of labor disputes there has been created by statute a State Board of Mediation and Arbitration, whereby the parties to such a controversy may voluntarily submit their differences to the decision of a standing tribunal, organized and maintained by the State. This law was passed in 1886 and the system has been in operation thereunder for about five years. It is claimed that the scheme has not met with that degree of success that was anticipated by its advocates. This much, however, may be said in extenuation, that both employers and employes were naturally suspicious of its provisions and were reluctant to avail themselves of its benefits. It is easy to clamor for arbitration but it is always observed that the enthusiasm subsides when either side discovers that it cannot be entirely certain of controlling the action of the arbitrators. Human nature always prefers a sure thing, and is disappointed when it fails to secure it. The law was ineffectual or defective in that it failed to provide for compulsory arbitration, and while as between individuals such compulsion is impossible, it is believed that in regard to

corporations and their employes it is practicable and could be carried out.

There also seems to be a difficulty in enforcing the decisions of the Board, and its functions are therefore now restricted mainly to an investigation of disputes and suggestions of an advisory character.

The situation seems to demand such wide additional legislation as will perfect a system capable of much usefulness.

The operations of the Bureau of Labor Statistics, previously created, have been wisely extended, whereby all the information obtainable pertaining to the interests of labor is collected for the instruction of the people and especially for the guidance and study of laboring men. The reports which it has furnished to the Legislature from time to time have not only been interesting and instructive for general use, but they have furnished the facts from which much remedial legislation has been enabled to be intelligently framed. There need be no hesitation in asserting that the Bureau is a successful institution, and worthy of continued confidence and support.

There was established in 1886 a system of inspection for the manufacturing establishments, and especially for the factories of the State. The policy of inspecting such institutions had been adopted in other States with good results, and New York, ever alive to the interests of labor, hastened to follow their good example. The system was enlarged and extended in 1887 and again in 1890, and now the State employs one Factory Inspector, eight deputy inspectors, and eight deputy female inspectors, and it is believed that they are all faithfully discharging their duties to the satisfaction of the public.

While it is not the province of the State to interfere unnecessarily in the private or domestic affairs of citizens,—manufacturing establishments, whether corporate or individual, are quasi-public institutions, in that the comfort, health, and lives of vast numbers of people are involved in their safe and proper manage-

ment,—it nevertheless becomes the duty of the State to exercise at least a supervisory power over their administration.

Child labor has been regulated and greatly restricted by a wise and comprehensive statute. It now may be regarded as settled that the place for young children is not in factories, but in schools. This result has been secured against the combined efforts of some manufacturers who desired cheap labor, and parents who wished their minor children to support them.

The use of political “pay envelopes” to improperly influence workingmen in their exercise of the elective franchise, which played so important a part in previous presidential elections,—has been prohibited by law. Intimidation of workingmen has also been forbidden.

Permit me to quote the provisions of the statute of 1890 upon this subject, which are as follows:

“It shall not be lawful for any employer in paying his employes the salary or wages due them to enclose their pay in ‘pay envelopes’ upon which there is written or printed any political matters, devices or arguments containing threats, express or implied, intended or calculated to influence the political opinions or action of such employes. Nor shall it be lawful for any employer, within ninety days of a general election, to put up or otherwise exhibit in his factory, workshop or other establishment or place where his employes may be working, any handbill or placard containing any threat, notice or information that in case any particular ticket or candidate shall be elected, work in his place or establishment will cease in whole or in part, or his establishment be closed up, or the wages of his workmen be reduced, or other threats, express or implied, intended or calculated to influence the political opinions or actions of his employes. This section shall apply to corporations as well as to individuals, and any person or corporation violating the provisions of this section shall be deemed guilty of a misdemeanor, and any corporation violating this section shall forfeit its charter.”  
(*Chap. 94 of Laws of 1890.*)

This is a most important law and one calculated to promote the freedom and purity of elections, and will tend to secure the independence of laboring men in their political actions.

It has also been provided by law (*Chap. 262 of Laws of 1890*) that any elector may absent himself from any service or employment in which he is engaged or employed for a period of two hours on any general election day, without any deduction from his usual salary or wages, for the purpose of enabling him to vote. This is a valuable privilege, and one which will be appreciated by many who have found it difficult or inconvenient heretofore to freely exercise the elective franchise.

Certain corporations have been compelled to make weekly payments of their employes' wages. The interests of railroad employes have been regarded by the appointment of a practical locomotive engineer as one of the State Railroad Commissioners. Several mechanics' lien laws have been passed. Workingmen's wages have been made preferred debts against receivers of corporations. Safeguards have been erected for the protection of laborers from injuries while engaged in the construction, repairing or painting of buildings. The number of hours of a day's labor of employes on street or surface railroads has been reduced. An act has been passed to protect wages and salaries in assignments by debtors. Laws have been enacted to regulate the employment of women and children in manufacturing establishments. Free lectures have been provided for workingmen and women. Prison labor has been so regulated and restricted as to prevent much of the competition with free labor which formerly existed. Additional legislation, however, to more carefully protect the interests of outside labor is still required. Laws have been enacted to regulate the use of steam boilers for the protection of engineers and firemen. The construction of tenement-houses has been regulated for the greater sanitary protection of tenants. The incorporation of co-operative savings banks and loan associations has been authorized. Industrial insurance has been relieved from



taxation. Small parks have been created in the tenement-house districts of New York, and various other measures offering more or less relief and ameliorating the condition of the poorer classes of society have been enacted.

An even better disposition toward legislation of this character was manifested in at least the popular branch of the Legislature last spring, when among the bills passed by the Assembly were the so-called anti-Pinkerton bill; the bill to extend the advantages of the weekly-payment law to employes of railroads; the five-per cent. interest bill; the liability of employers bill; the constitutional convention bill, and others.

There are other and similar fields of legislation having for its object the welfare of the masses which the Legislature can safely enter. It should be understood that the laboring people stand before the Legislature in no sense as suppliants.

There has been too manifest in the past a disposition on the part of legislators to regard as "concessions" such so-called labor measures as have been allowed to become laws. Labor organizations do not ask these measures as favors. They appeal to the Legislature as a matter of right; they base their claims on principles of justice. The wisest of their representatives have no desire to pervert the nature of our government, or to increase its power of interference with the rights and privileges of the citizen, for that increase of power would offer greatest opportunities for tyranny and abuse over the weaker classes; but their object, as I understand it, is to secure equality of privilege; to remove legal discriminations against employes; to enable workingmen and workingwomen to have an equal chance before the law with others more favored by fortune and more influential with Legislatures. We all protest against governmental encouragement of monopoly; we should as firmly protest against unnecessary governmental restrictions of individual liberty. The great danger of labor legislation is that it may become class legislation—and that is the worst sort of legislation for wage-earners.

The key to a much safer basis of so-called labor legislation, permit me to suggest, is to be found in the incorporation of trades-unions. Let me repeat what I said in my annual messages of 1885 and 1886 on this point. "Facilities have been afforded," said I, "by law to enable capital to incorporate and combine for its protection; like facilities should be afforded for the organization of labor. \* \* \* It would strengthen the worthy organizations of workingmen, enabling them to more readily enforce their rights among themselves and the public, and giving to their proceedings, when acting as a body, the sanction of binding and legal authority, and in many other respects the privileges conferred would be beneficial to all concerned, affording an opportunity to relieve such associations from any objectionable features and greatly increase their usefulness."

Workingmen, as much as any class, are interested in good government. Their prosperity largely depends upon the peace, good order, and prosperity of the country. They want an honest and economical administration of public affairs. Their interests will be subserved by an equalization of the burdens of taxation. They are naturally opposed to a plutocracy in any form. They are in favor of the maintenance of manhood suffrage. They protest against unreasonable sumptuary legislation. They believe in the largest liberty to the individual citizen consistent with the public welfare. They demand equal rights, public education, the currency of the Constitution, and a free and untrammelled secret ballot. They insist upon an impartial administration of the criminal law. Comprising a majority of the voters of the country they are able, if they will, to influence its policies. May that influence be directed always to the preservation of our American institutions in all their purity and simplicity! They have been largely instrumental in making the country what it is to-day. It is the country of progress, of liberty, and of law. It is the proud boast of our people that the humblest citizen may aspire to the highest positions in the land. There are no family oligarchies

or castes in the politics of this free Republic. No matter under what skies a man was born or what the accent of his speech, he is a component part of our great population—a citizen with rights equal to those of men of greater fortune, or of more distinguished lineage, and is entitled to equal share in the management of public affairs. Those are short-sighted leaders who court the support of the classes in preference to that of the masses.

I congratulate you that upon the fifth anniversary of this holiday the dignity of labor was never so firmly established, the influence of the workingman was never so generally respected, his trials and obstacles never met more earnest sympathy. Yet we are but at the beginning of a new epoch of industrial effort, in which I believe the true relations between wage-earners and employers will be more thoroughly appreciated and the conditions of workers materially improved. Hard problems will have to be solved and the world will look to you for their proper solution. That confidence you will deserve, I am sure, by your intelligent exercise of judgment, by your forbearance, by your wise persistence, and by your united and harmonious action.

## A LOWER RATE OF INTEREST.

EXTRACT FROM GOVERNOR HILL'S ADDRESS AT THE  
FRANKLIN COUNTY FAIR, MALONE, N. Y., SEP-  
TEMBER 24, 1891.

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In approving a bill during the last session of the Legislature to reduce the rate of interest on bonds and mortgages held by the Commissioners of the United States Deposit Funds in this State from 6 to 5 per cent., I said in a memorandum — "This reduction is believed to be in accord with a growing public sentiment which seems to desire a lower rate of interest upon money, and which may tend to pave the way for further legislation upon the subject."

That prediction was based upon the passage in the Assembly a short time before of a bill reducing the legal rate of interest from 6 to 5 per cent. The bill failed in the Senate, but its passage in the popular branch of the Legislature may be taken as a very good indication that the people of the State and especially the farmers believe that monetary conditions justify a reduction in the legal rate of interest.

I shall not attempt to explain why the bill was never reported by the Committee on General Laws in the Senate. It may have been accounted for by the very large and imposing delegation which came to Albany while the bill was pending in the Senate committee to protest against the passage of this and other bills of a much more questionable character. At the hearing which the committee granted to this delegation there were present many gentlemen with whom I am personally acquainted and for whom I have the greatest respect — men prominent in the banks

and commercial bodies of New York—and in criticising the fears which were expressed at the hearing as to what might happen if the 5 per cent. bill was permitted to become a law, I do not wish to discredit their motives but merely to ask, in view of certain facts and figures which I desire to present, whether in the judgment of impartial men those fears and gloomy predictions are hardly justified.

The principal argument advanced by these bankers and others against the enactment of the proposed bill was that its effect would be to drive capital out of the State, and, therefore, to raise the rate at which money could be obtained by business men in the discount of notes, and by farmers in the borrowing of money on mortgages. We all know that capital is proverbially timid, and if I should insinuate that any personal motive was behind the express fears of these bankers and their efforts to defeat the bill I would do them an injustice, for my friendship with them is so great and my esteem for them so high that I feel sure they would give utterance to no such predictions unless they had absolutely convinced themselves that the legislation was not for the best interests of the people of the State. But I very well remember that in 1879, when the Legislature was considering the bill which subsequently passed to reduce the legal rate of interest from 7 to 6 per cent., there was the same outcry against its enactment on the part of these same interests; that committees of bankers appeared before the Legislature at that time also making the same gloomy predictions that capital would be driven out of the State, and that the cost of money to borrowers would be increased. I remember that the bill was fully discussed in both houses of the Legislature; that many attempts were made to defeat it; that it was finally passed in the Senate after amendment by a vote of 21 to 4, and in the Assembly by a vote of 98 to 17. With the effect of its enactment you are as familiar as I, but in order to remind you of what actually occurred let me read to you the opinion of the leading financial journal in New York city, *The Commercial and Financial Chronicle*, which on January

8th, 1881, in reviewing the year's financial record said: "The legal rate of interest was reduced by law in New York State to 6 per cent. from and after the first of January, 1880, and the wisdom of the legislation was well proved by the event, as the decline in rates for money on first-class securities was greater than one per cent."

One of the distinguished gentlemen who appeared before the Senate committee in this imposing delegation, to which a hearing was given on April 15th, last, was Mr. Charles S. Smith, the president of the New York Chamber of Commerce, who was chairman of the delegation. I assume that Mr. Smith sympathized with the object of the delegation, namely, the defeat of the bill, or he would not have been present. I must assume also from the fact of his presence that he subscribed to those gloomy fears which predicted the expulsion of capital from the money centers of our State. I am surprised that he should have been there upon such an errand, for I remember that not quite two months before he had appeared in Washington before the House Committee on Coinage, Weights and Measures in opposition to the bill for the free coinage of silver, and that in his speech before the committee, in combatting the proposition that the country needed more currency, he spoke as follows: "There is no lack of currency in the great commercial centers. Any man who has got any thing to borrow with can borrow all the money he wants on call in New York to-day at 2 to 2½ per cent. I am a director in four financial institutions. I am vice-president of a large national bank, and a director in two others, and also a director in the United States Trust Company, and I tell you we have got more currency now in the great commercial centers than we want. Currency is being sent from the South, from the West, and we are largely above our reserve. The president of the Fourth National Bank of New York told me that he had tried hard to loan money at 2 per cent. and could not do it. \* \* \*

*We have the easiest money market that the United States has ever had, and it is likely to so continue."*

That last sentence, gentlemen, is the key to the convictions of

some of us who believe that 6 per cent. is too high a legal rate of interest in view of the monetary conditions which have prevailed during the last five or six years, and in view of the tendency of money the world over to command a lower and lower rate of interest. Whenever a lower legal rate of interest is advocated, its advocates are often accused of being demagogues, with sympathizing only with the debtor class of the community (whatever that may be), and with not having at heart the best interests of the whole State. But these people are either biased by their selfish interests, or else they fail to recognize what a general and important factor in business the credit system is. In the so-called debtor class at which they sneer is every merchant who has his notes discounted at the bank, and every laborer who is striving to build a home for his family, and who therefore are interested equally with the farmer who wishes to mortgage his farm,—all these people, comprising a majority of the population, are equally interested in being able to borrow money at a lower rate of interest.

Now if we assume the right and prerogative of the State to establish a legal rate of interest, what shall that legal rate be? Clearly it should be no higher than average normal monetary conditions justify. I have undertaken at some pains to ascertain as nearly as possible what money has been “worth” in the great financial center of the State, namely, the city of New York, during the last ten or fifteen years. I have consulted in my investigations the files of the New York *Commercial and Financial Chronicle*, in which are given the average rates of interest charged on call loans, and on prime paper, for each week, and from these I have computed the average rate for each year. I found that the average rate of interest charged for call loans during the five years from 1885 to 1889 inclusive was  $3\frac{5}{10}$  per cent., that the average rate of interest charged for loans based upon prime paper as security during the same period was  $4\frac{8}{10}$  per cent. Now I ask you frankly if, having admitted the right of the State to fix a legal rate of interest, and having established the principle that this legal rate of interest

should not be greatly in excess of the market rate, I ask you frankly whether in view of this showing from standard financial authority, the Assembly was not justified in assuming that the legal rate of interest could be safely reduced from 6 to 5 per cent. All my figures show that with the exception of last year, which was an unusual year for disturbances of the currency, the rate of interest for loans on good security has been steadily decreasing.

I would be one of the last to suggest any legislation which I thought was not for the best interests of a majority of the people in the State, but I am not one of those who are easily frightened by predictions of disaster which have their origin in the timidity of capitalists.



# GOVERNOR HILL'S ORATION

AT THE

UNVEILING OF THE MONUMENT IN HONOR OF HENRY  
W. GRADY, IN ATLANTA, GA., OCTOBER 21, 1891.

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This is an unaccustomed spectacle. The scene which we are now witnessing scarcely finds a parallel in all the history of the world. It is an occurrence upon which the earnest attention of the whole American people is riveted at this hour, because of its peculiar significance. Not to the memory of a great soldier or a famous statesman is this statue unveiled to-day, but to a plain citizen of the Republic — a “journalist, orator, patriot.”

Journeying so far, intermitting for a season official routine and political duties in order to be present with you beside this dedicated monument of your enduring and proud memory, I have questioned whether the act might not speak more acceptably than any word of mine.

To pay the due tribute of a personal friendship, it is enough to come hither in silence, and amid this throng of Georgia's sons, and of southern men from sister States attesting a common heritage of grief and pride, here cast my leaf among your laurels, and passing to my northern home,

“ turn,  
“ And bid fair peace be to his sable shroud.”

To commemorate the mark he made, the prizes he won in a high calling, there needs no eulogy from me. His acquirements, his gifts, his genius, the outlines of his manly character, the circumstances of his career, are best known to you among whom he

lived and did his work, until for him — too soon, alas! — the night came which ends all our brief days and work.

Yet beside this tomb, before this silent token of a Nation's mingled grief and homage, no greater tribute could I pay to Henry W. Grady's memory and public services, than to repeat the story of his brave life. That life — so brief and yet so full — is the history of a noble purpose born in the generous impulses of a warm and patriotic heart, stirred by the sufferings and despair of his stricken countrymen, sustained by his confidence in the South's resources and the South's manhood, aided by his own great genius and practical energy, and accomplishing within his life-time its great end — the restoration of the South's prosperity and the complete reconciliation of North and South. In few lives of two score years has so much good been crowded; in few have such great results followed an earnest consecration to the public welfare. With the unveiling of this heroic bronze, as the just commemoration of a people's love, fitly may we recall the circumstances of that unique career and the good deeds of that noble life.

I make no excuse for a trite expression when I say that Henry W. Grady was emphatically a man of the people. Every pulse of his heart beat in sympathy with the best interests of mankind. Born in the grand old Commonwealth of Georgia (at Athens, on May 24, 1850), he always loved the soil of his native State. He was proud of her people and her institutions, jealous of her honor, and loyal to her interests. His boyhood days were unquestionably happy ones. His disposition was vivacious; he liked manly sports—he was a leader among his schoolmates. He enjoyed the companionship of good fellows, and was deservedly popular. He was not a close student, especially of his text-books, but he read every thing within his reach, and his memory was remarkable. He enjoyed history, romance and poetry. The humor and pathos of Dickens touched a responsive chord in his nature. His best intellectual efforts were reserved for the literary and debating society, where he excelled.

After graduating at the State University at Athens, he took a supplemental course at the University of Virginia, with a view especially of cultivating his innate powers of eloquence. It was eminently appropriate that one who was destined to become a great advocate of Jeffersonian principles of government should have attended the famous institution of learning which was founded by Jefferson himself.

About the time of his majority, he determined to make the profession of journalism his life-work. His early efforts in the field of newspaper proprietorship and management constitute a record of repeated failures. His lucky star had not yet appeared in the business firmament. Poverty, adversity and disappointment seemed to be his cruel fate for several years. They were years of severe discipline, years requiring the exercise of courage, fortitude, and patience. They fully tested the character of young Grady, and thoroughly equipped him for the vast accomplishments which were in store for him in the future. At last the days of prosperity came; and as a member of the editorial staff of the Atlanta *Constitution*, and as the southern correspondent of the New York *Herald*, there were opened up to him valuable and important fields of usefulness and influence, which he filled with unusual brilliancy and increasing public reputation.

The tide had turned, and the days of doubt and despondency were over. The generous action of a new found friend soon enabled him to purchase a fourth interest in the *Constitution*, and from that hour the grand destiny of Grady was fixed. He rose rapidly in general esteem, he became a powerful factor in the politics and prosperity of Georgia, and the attention of the Nation was drawn to his career. In those few years intervening before his death, he rounded well the record of his brief life, and richly earned that simple, but impressive epitaph which you have placed upon this granite base — "Journalist, orator, patriot."

"Journalist, orator, patriot" — did ever sculptor's chisel cut a truer or worthier epitaph? "Journalist, orator, patriot" — what

three words portray more truly Grady's life-work?—What are fuller in suggestion and significance?

Grady chose his profession well. No other would have suited so well his varied talents and his intellectual genius. No other would have offered the same opportunity for his philanthropy and his influence. Barely had he finished his apprenticeship when he wrote: "I have seen the field of journalism so enlarged, its possibilities so widened, and its influence so extended that I have come to believe earnestly that no man, no matter what his calling, his elevation or his opportunity, can equal in dignity, honor and usefulness the journalist who comprehends his position, fairly measures his duties, and gives himself entirely and unselfishly to his work." That was what Grady did. He began when journalism in the South was at a low ebb—when readers were scarce and newspaper enterprise was stagnant—when industry was paralyzed and trade stood still. He left off when journalism was vigorous, resourceful and influential, when commerce flourished and industry was making great strides, when prosperity had replaced poverty, and hope and energy had taken the place of despair and indifference. In this transformation of conditions he was the most conspicuous participant. True to his conception of journalism, loyal and unselfish in his work, he turned the wonderful power of the press to the noblest purposes—the recovery of his stricken land from the blight of war, the restoration of its prosperity, the development of its resources, the resignation of its people to their hardships and the kindling of new ambitions and new ideals.

In this consecration of himself and in this conception of his profession, Henry W. Grady was the typical journalist. Of the more technical character of his journalistic qualities others are more fitted to speak than I;—I know that he was a graphic and vigorous writer, that he possessed great literary resources and a storehouse of knowledge, that his energy and ability with sympathetic and intelligent co-operation built up a great newspaper and

revolutionized southern journalism; but to me, and I think to most persons who have watched the career of this young Georgian, the conspicuous and absorbing feature of that professional life was its constant purpose and its unselfish consecration. Without these he might have won lasting fame as a newspaper editor, but with them he raised the standard of his profession, emphasized its high calling, widened its sphere for good, and earned that worthy epitaph which should be the aspiration of every fellow-worker in this great field — journalist *and patriot*.

What great possibilities are suggested in that vocation which Grady honored by his work and uplifted by his high purpose!

After its birth in Queen Anne's day not a century had passed before that great Irish statesman, Edmund Burke, could say of the newspaper press — "It is a part of the reading of all, the whole of the reading of the far greater number."

And as yet railroads did not exist. Not one wire had been strung to carry power or speech. Fast presses were undreamed of. Our chemistry was nearer to the papyrus of Egypt, 3,000 years before Christ, than to the miles of sheeted wood-pulp which make the cheap paper of our modern journals an ever-renewed storehouse of a vastly larger body of learning and literature than perished in the flames of the Alexandrian library.

"A part of the reading of all, the whole of the reading of the far greater number" and the nineteenth century not begun. We are in its last decade, and what is the proportion of newspaper reading now? Its past history foretells an uncommon destiny if one tracks a few branching lines of its origin back through the political pamphlet and the news-letter, the placard, the song and the sermon, the pasquinade and the philippic, to the witenagemote, the forum and the pnyx.

News-buying, news-selling and the vending of publicity — to that commerce there are now joined some higher functions of the politician and the publicist in such a quadruple alliance that within the life-time of still active men the daily press seems to

have created a new era and to be remolding our social and political character into its own likeness.

It was this larger conception of the possibilities of journalism which inspired and ennobled Grady's efforts.

To assemble the people of a whole continent together in one place at one time, would be deemed, if for any rational purpose of assembling, a prodigious achievement. To make public feeling aware of itself, and known to all men, upon some pressing point of public policy, is an object of the ballot-box and of half the machinery of government.

Yet it passes unobserved how the newspaper, between sunrise and sunset, renews the daily sessions of that great convocation.

Venders of publicity might be expected to push its areas over some old areas of privacy. These search-lights of the modern journal do sweep the whole horizon of our daily lives.

The novelty is less aggressive than it seems.

Of course every man's house remains his castle, his good name is a possession, and all his rights can be maintained against intrusion or invasion from editors or any other private persons, as well to-day as in 1702. Certainly the newspaper now-a-days seems to be giving us plenty of gossip. But was there no gossip anywhere before newspapers? Does not bright gossip struggle with dull gossip and the fittest survive? Does any thing worse happen than that village gossip has to enter a new competition with the gossip of the city, the nation, the world?

Moreover, nobody's attention is taken by force. Perusal is consent.

There is some cant in the current criticism. A page of trash that a wise reader can skip is not too high a price to pay for circulating Washington's farewell address, or any later grave news of the day, under the eye of many less wise readers.

What our own newspapers omit, rather than what they print, is blameworthy.

The London *Times*' reports of political debates in Parliament

and upon the stump are incomparably superior in every respect to the corresponding reports of any American journal. Drivel is excluded. Both sides are presented with equal fulness and perfect fairness in the speeches of the few real leaders. Not one American journal pretends to do its readers this service; though space enough is liberally given, but given to itself and its editors and reporters talking about and about the matter.

When all American statesmen are editors, however, our political parties will cease to suffer from an exclusion of first-rate champions to put their case to the widest audience.

I pay for many American newspapers to give me all the news of the world. Such news not one of them supplies, not even those which are making colossal fortunes for their proprietors. Any journalist at his best can but show us the worlds in which he dwells, in which his own thoughts live and move — news only from the worlds which he himself has eyes to see.

The future scope of the daily journal is doubtless vastly further beyond the reach of our present imagination. Every enlargement of its power, on the whole, I confess, seems to me salutary. More and more is it becoming the great engine of modern progress.

“ Mightiest of the mighty means,  
On which the arm of Progress leans —  
Man's noblest mission to advance,  
His woes assuage, his weal enhance,  
His rights enforce, his wrongs redress —  
Mightiest of the mighty is the Press ! ”

The press is our best security for the preservation of our political institutions. It is our best safeguard against the perversion of our government — against loading it up with private business we can best co-operate and do. In that direction lies our great danger. We elect our Presidents and Governors forsooth, but not our editors. Perhaps ballots then need not be omnipotent. To our editors we may look when socialism and centralization stand unrebuked by those to whom ballots have intrusted that

responsibility. The freedom and growth of the press will at last invigorate that clause of our Constitution which withholds from government all but a few specific and expressly granted powers. Better every just expansion of private freedom than any growth of governmental function—still more of governmental usurpation.

In behalf of the workmen in such a calling it would be presumptuous that I should speak here. The journalists of the United States have garnered up this fame. They know their own heroes.

But among our 65,000,000 people some there are whose title to be represented here is foremost.

Yet who dare summon to this cenotaph that visionary presence? In their behalf who can presume to speak?

For they are those among a patriotic and united people who are most worthy to be named by the name of patriots. They are those in both political parties, in every calling, and in all the States of our Union, whose thoughts, emotions and active energies are given the most generously to public affairs.

They are those who carry, besides the burden of their private cares, besides their business, household and family burdens, their full share or more of the people's business burdens and cares. Not alone the burden of public office or of representation in our Legislatures do I mean, even when these may be the severest allotment of such public burdens. They are those private citizens as well, whose patriotic ardor never lets fall from an active regard the public weal or woe.

They are those who can not afford to make wealth-getting their sole occupation. They are those who *choose* to be handicapped in the race for the prizes of business and the professions, by every unselfish energy spent in controlling the policy, limiting the sphere, selecting the ministers, and watching the administration of your Federal, State, municipal and neighborhood affairs.

They are those into whose hearts has sunk the deep conviction



that ours is a society, and therefore a government, of the people, for the people, by the people; that social burdens must be shouldered; that honors, offices, and ballots too, are a public trust; that the wisest must share his wisdom with the lowliest, and pay the tax of convincing his neighbor; that our democracy is *self-government* primarily, that its expansions are by the method of debate and persuasion; that guarding individual freedom against all aggression, even its own, is the sum of its functions, their limit and their goal; and that by means of such freedom for freemen, the progress of society, not decadence, may become its assured destiny and final law.

Call not these the Utopians of our land and our parties.

It is the politicians of the United States — from the ballot-box to the Capitol — who are most worthy to be assembled with us at this memorial hour and to have a spokesman here.

For this young journalist was in this best and broadest sense a politician, and he carried in his noble heart the burden of a public care.

He collected your opinions, he shared, tested, expressed your sentiments, he divined your deepest thoughts, he gave you the best of his own, he became at last your voice, the voice of the new South.

“At last he beat his music out.”

We heard the fine clarion among our snows as you had been hearing it over your savannas. The sweet piercing note salutes at first unfriendly ears, but wins its way at length, persuades a silence among jarring tongues, and finally attunes a chorus to its own pure lofty melody.

I do not overestimate the effect produced by a single speech. But you know how it is said that Swiss guides in a snow path whisper, lest vibrations from the voice shake down a little white drift, and so let loose an avalanche.

Results may look magical that can be explained.

There was at least a wide preparedness in the public mind of

North and South. All the co-working tendencies which more than a hundred years ago brought the disunited colonies along our vast Atlantic seaboard into a single federation of United States; all the giant forces which thirty years ago, between the gulf, the great lakes and the two oceans, interlocked their stresses and their strains to resist the disruption of war,—all these controlling tendencies and forces had been ceaselessly at work.

Yet the day of our peace seemed forever postponed.

One northern journalist, Horace Greeley, had shrilled his untimely note — “Let us shake hands across the bloody chasm” — and tumbled to his burial in its dust.

The master of many legions, General Grant, in vain had cried, out of a manly and patriotic heart — “Let us have peace.”

Your great soldier, Lee, amid another gallant generation of southern youth, had set himself to preparing the harvests of peace and

“her victories  
No less than those of war.”

Quite other ideals of duty inspired those heroes who then kept on waving the bloody shirt. For then too many tongues were yet bitter, too many hearts were yet sincerely alienated.

And it was then that this young Southron whom we all for that public virtue now praise, came to the metropolis of our Union, where his voice could be heard afar, and in a single speech, for you so representative, for us so moving, sounded a note and called forth such a unison from accordant hearts as heralded our better day.

It was no miracle, no magic. But it was the hour and the man.

It was the victory of youth and genius. It was the perception that the old order changeth, giving place to the new — and that the old order *had* changed, and that the new order *had* taken its place.

Twenty years after your great statesman, Benjamin H. Hill, came and spoke those memorable words before the Tammany

Society of New York, and carried conviction to every Democratic heart,—twenty years, twenty years later, your ardent young Grady came and spoke the same memorable words before the New England Society of New York, and carried conviction to Republican hearts.

“There was a South of slavery and secession. There is a South of Union and Freedom. That South, thank God, is living, breathing, growing every hour.”

Other appeals had never touched the same chords of sympathy and charity. He told us only what we knew, but what before we had never so fully appreciated. For a generation we had looked at the misery of only one side in that terrible conflict—our sympathies and our charities were selfishly confined to the sufferings of our own section. Grady lifted the scales from our eyes and gave us new sight. He burst the narrow bounds of our sympathy and gave it broader scope. He unconsciously and unobtrusively rebuked our sectional selfishness, brushed away our jealousies, scattered our prejudices and almost in an instant made of us all better patriots and truer Americans.

It was the appeal of eloquence and patriotism. It was the cry of earnestness and truth.

In his pathetic picture of the gray-coated soldier wandering homeward from Appomattox in 1865, half starved, ragged, wounded, finding home gone, friends killed, families divided, property destroyed, old institutions shattered, seeing not one ray of hope for the future, broken in spirit and in health, yet bravely, meeting these grim realities as he had met Federal bullets and bayonets and setting himself to work to build a new structure of society under strange conditions, to stimulate industry, to restore lost fortunes—in this eloquent realism Grady stirred the northern heart as it had not been stirred before. His generous tribute to Abraham Lincoln—the sum of Puritan and Cavalier—as “the first typical American—the first who comprehended within himself all the strength and gentleness, all the majesty and grace

of this Republic" — the touching eulogy to his own dead father, who died a soldier's death in the Southern cause, the recital of the progress, hopes and ambitions of the new South, the pledges of its loyalty which he renewed in its behalf, and his appeal for justice, reconciliation, confidence and patience, did more toward the annihilation of sectional animosities than any speech that was ever delivered in this country, and rendered it the most effective, patriotic oration of modern times. It received the plaudits of the people. It thrilled every part of the Nation. It reunited the Republic in the sacred bonds of union and peace. It cemented the ties of friendship between the sections stronger than when they were first formed, by our forefathers during revolutionary days.

It caused a revival of pure and lofty patriotism. It touched the heart and conscience of the country. The name of Grady was upon every lip. He had accomplished a life work in an hour. If he had no other claim upon the gratitude and remembrance of the American people, this single effort of his genius was sufficient to give him undying fame and to establish his memory forever in the grateful affections of his countrymen.

He lodged conviction in the hearts of many a patriot, many a politician who had shared the passions and voted the convictions of the old Republican party, but who till then had overlooked the circumstance that the war was over, slavery dead, and what stood surviving in complete vigor and boundless beneficence was "an indissoluble union of indestructible States." And so they too, a little belated in their fellow-citizenship if you please, but not time-servers, gave him cordial greeting as one who spake from a patriot's heart to patriotic hearts.

The blood of the Puritans still flows in the veins of their countless children and children's children, between Cape Cod and the Golden Gate. It is a proud lineage. Democrat or Republican, they know they belong to the breed of the founders and upholders of States, the true "*conditores imperiorum*." By the measure

of those sacrifices which they joyfully and unflinchingly bore, and still bear, to preserve indissoluble this union of States indestructible, by that measure we may know what sacrifices at need they would joyfully and unflinchingly bear to preserve indestructible the States of a union indissoluble.

So Grady, carrying to the North with him that burden of a public care, and by his inspired eloquence convincing us of the earnestness of his message, touched the chord of human sympathy and true patriotism, and bound again the loosened ties of sectional friendship. From that moment, appeals to sectional prejudice fell on deaf ears; from that moment attempts to array section against section were vain. The North put away its vague fears and its animosities engendered by war and allowed expression to its quickened sympathies, which the South, perceiving and feeling, met with prompt response and frank trust. From that moment began a new era of fellowship and fraternity.

While it will be conceded that Mr. Grady's New England dinner speech at once established his reputation as an orator upon a wider and more enduring field than he had theretofore occupied, and attracted world-wide attention because of its impassioned and unique oratory and the peculiar circumstances surrounding its delivery, yet it may well be contended that his address at the Dallas, Texas, fair on "The South and Her Problems" was a more able production and exhibited more careful thought and preparation. His address "Against Centralization," delivered before the societies of the University of Virginia in 1889, showed the research and foresight of a statesman. But his speech at the Boston banquet in December, 1889, was the ablest and grandest presentation of the position of the South on the race problem that has ever been put forth, and in the judgment of many surpassed all his previous efforts as a brilliant orator and profound thinker.

With this speech Grady's mission of peace was ended. For the last time that eloquent voice had sounded the note of reconciliation, and in the very home of Puritanism. It was his last effort

and his last sacrifice. At Boston he contracted the disease which caused his death. True are the sweet words of the inscription upon this monument, that "when he died he was literally loving a nation into peace."

Henry W. Grady was not only a great orator and a public benefactor—he was a typical citizen. The solid virtues of his private life fitly supplemented the brilliant qualities of his genius and the great accomplishments of his public efforts. He was a domestic man. He loved his home and his family; he was always delighted to entertain his friends around his own hospitable fire-side. He loved the country and its quiet pursuits. He loved this city of his adoption and fondly watched its proud progress. He loved its people and was by them in turn beloved. He was a rare conversationalist and a genial companion. He was a true friend and an honest man. Absorbed in his profession he never held or sought office.

He died at the early age of 39. His wonderful career resembled a meteor flashing through the heavens, dazzling us with its brilliancy and startling us with its sudden departure.

Proud ought Georgia to be of her noble son! Proud ought the South to be of her great benefactor! Proud ought the Nation to be of her eloquent pacificator!

Beneath this bronze memorial and throughout this broad land let Henry Grady's memory be cherished by every patriot. Let the story of his great work inspire every true American. Let the example of his exalted purpose and generous effort make fairer partisans and better citizens.

The sacred task which he accomplished let no man try to undo. The reconciliation which his eloquence brought about let no man dare to disturb. Let that hand wither which seeks again to kindle the fires of sectional strife that Grady quenched. A reunited people shall quickly avenge that insult to his memory, and smother with reproach that incendiary effort.

To you of Georgia this occasion has a double significance.

These exercises to you are not merely commemorative of a national service or evidence of a nation's respect. They remind you of your personal loss—they recall to you that affectionate interest which Grady had in your individual and public welfare—that intense sympathy in your sorrows and that rejoicing in your successes—that loyalty to the fame and prosperity of your State. He knew your trials and shared them. He knew your poverty and tasted it. He knew your spirit and fired it. He lived, thank heaven, to see your prosperity and honor it. "As for me," he said, long before the ravages of war had been effaced from your proud State, "As for me, my ambition is a simple one. I shall be satisfied with the labors of my life if, when those labors are over, my son, looking abroad upon a better and grander Georgia—a Georgia that has filled the destiny God intended her for—when her towns and cities are hives of industry, and her countryside the exhaustless fields from which their stores are drawn—when every stream dances on its way to the music of spindles, and every forest echoes back the roar of the passing train—when the valleys smile with abundant harvests, and from her hillsides comes the tinkling of bells as her herds and flocks go forth from their folds—when more than two million people proclaim her perfect independence and bless her with their love—I shall be more than content, I say, if my son, looking upon such scenes as these, can stand up and say: 'My father bore a part in this work, and his name lives in the memory of this people.'"

Truly does his name live in the memory of this people! Rich as Georgia is in the fame of her brilliant sons, few names among your illustrious men hold a more sacred place in your affections. Great orators you have had—Toombs, Stephens, Hill—yet the eloquence of none came from a truer heart or expressed a more exalted purpose. Great statesmen and brave soldiers you have had, but none gave his life and his genius to a nobler task. He was the sympathetic friend in your days of adversity; he was your inspiration in days of struggle; he was your hope in times of

despair; he was the embodiment of your new aspirations — the representative of your new ideas — the leader in your new prosperity. When upon the solid foundations of success which you and he have built, the complete structure of a glorious statehood shall be reared by your posterity, jealously may those future generations preserve the memory of that young Georgian, and point with veneration to this noble statue — repeating softly and reverently the words of this inscription — “Henry W. Grady, journalist, orator, patriot.”

And when from distant States and a colder clime strangers shall walk through the streets of your beautiful city, and gaze upon this memorial of your love and pride, affectionately may they recall the life-work of this beloved southerner, and reverently carry away with them as an inspiring and patriotic memory the touching tribute which you have inscribed in these letters of stone, that “when he died he was literally loving a nation into peace.”

A nation in peace! A broad land disturbed by no civil dissensions, threatened by no foreign enemy! A people united and homogeneous, prosperous and happy! No trace of conflict, no bitter memory, no questioned loyalty! That people rejoicing in the universal spirit of fraternity, retaining only the pleasant recollections of the past, harmoniously solving the problems of civilization, working out together the grand destiny of a common country — that people will ever hold in grateful remembrance the life and public service of Henry W. Grady.



STATEMENT  
OF  
PARDONS,  
Commutations of Sentence and Reprieves,  
GRANTED BY  
DAVID B. HILL,  
Governor,  
DURING THE YEAR 1891.



## PARDONS.

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March 13, 1891. Elias B. Jennison. Sentenced December 23, 1890; county, Monroe; crime, petit larceny; term, four months; prison, Monroe County Penitentiary.

While the facts proved on the trial were sufficient in law for the inference of an intent to steal, still the juster and more reasonable view is, that the prisoner was innocent of any real purpose wrongfully to appropriate another's property. He is a young lad, has the very best recommendations as to character, and where there is so much doubt as to his guilt, ought not to be suffered to remain in prison.

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May 25, 1891. William H. Barr. Sentenced September 16, 1889; county, Tompkins; crime, seduction under promise of marriage; term, two years, and fine, \$1,000.

After his conviction and while an appeal was pending, Barr and the complainant were married, and have since lived together as husband and wife. Barr is a physician in good practice, and the relations between him and the complainant are amicable, and the latter expresses the belief that they will so continue. She and all other persons in any way interested in the case, together with many leading citizens of Tompkins county, unite in the application for Executive clemency. In view of all the circumstances it is deemed advisable to grant it.

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October 26, 1891. Edward Kahout, Sentenced February 3, 1886; county, New York; crime, arson, first degree; term, life; prison, Sing Sing.

Henry and Edward Kahout, brothers, were jointly tried and convicted of the crime of arson in the first degree. The district

attorney, in reporting upon this application, says that had Edward's counsel demanded a separate trial for him, no such strong case could be presented as was made out against his brother Henry. Since the trial Henry has made a full confession, acknowledging his own guilt but wholly exonerating Edward. Eleven members of the jury present a petition, in which they declare their belief in Edward's innocence. A number of witnesses have been examined before a referee, and their testimony shows very satisfactorily that Edward was not in any way concerned in the crime. After a very careful investigation of the case, there seems to be no doubt that Edward was improperly convicted, and should therefore be liberated.

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December 22, 1891. Thomas J. Welch. Convicted in Onondaga county, December 22, 1891, of criminal contempt and sentenced to imprisonment in the Onondaga county jail for the term of thirty days and to pay a fine of \$250; and to be further imprisoned until the fine is paid, not exceeding thirty days after the expiration of the thirty days first mentioned.

This is an application for executive clemency on behalf of Thomas J. Welch, who has been adjudged, by an order granted by Mr. Justice Kennedy, to be guilty of a criminal contempt, and sentenced to imprisonment in the common jail of Onondaga county for thirty days and to pay a fine of \$250, the extreme punishment authorized by law. Welch was a member of the board of supervisors and of the board of canvassers of Onondaga county. The proceeding under which it is attempted to inflict this punishment grows out of the canvass of the votes cast at the recent election in that county. It does not appear that Welch disobeyed any order of the court directed to him. Judge Kennedy, sitting at Special Term, made an order requiring the board of county canvassers to send back the returns for correction in certain election districts. The order was without precedent and its legality is open to serious question. The board, acting under this compulsory mandate, and after it had passed a resolution that there were no errors appearing upon the returns requiring

correction, directed Welch to take back the returns in the election districts in his ward. Before he could comply with this direction of the board he was subpoenaed to produce the returns before me upon the trial of charges of official misconduct against the clerk of Onondaga county. One of those charges was that the clerk had made certain alterations of these returns or permitted the same to be made in his office and the charge could not be properly determined by me without the actual production of the returns before and the inspection thereof by me. As soon as the hearing was concluded and a decision reached, the papers were returned to Syracuse, and were sent to the inspectors and finally corrected as the order of the court required.

Aside from the grave questions involved as to the validity of the order of the court, which it is claimed that Welch disobeyed, I am satisfied that he ought not to suffer punishment on account of what he did under these circumstances.

I am entirely familiar with what has taken place in this county during the past thirty days, by which it has been attempted under the guise of judicial proceedings to compel the board of county canvassers to declare results not authorized by law. Every member of that board, in the discharge of his official duty, was justified in resorting to all honorable and lawful means to prevent the consummation of the great wrong which was contemplated. It was sought to substitute a partisan judge in place of the board of canvassers and to nullify the plain provisions of the Ballot Reform Law. Every member of the board who endeavored to defeat this partisan scheme and to maintain the dignity and jurisdiction of that body upon whom the law had conferred the right to canvass the votes, is entitled to commendation and not to punishment. Never before in the history of the State has there been such an arbitrary use of judicial power attempted.

There is another sufficient reason why executive clemency should be interposed. Welch has made application for a stay of

proceedings, pending an appeal from Judge Kennedy's order adjudging him in contempt, which has been arbitrarily denied.

This is equivalent to a denial of justice, for before his appeal can be heard and determined the sentence will have been executed and he will have suffered the greatest punishment which the law permits the court to inflict.

No matter how illegal or irregular was the order which he is accused of violating, or how unauthorized the proceeding which resulted in his conviction, there is no adequate redress for him in the courts.

It is for just such exceptional cases that the pardoning power was wisely vested by the Constitution in the Governor, and there should be no hesitation to exercise it when invoked in such a case.

The attempt to imprison Welch at this time for thirty days has a peculiar significance when it is shown that the board of supervisors without him is tied politically, and it is now in session and will be called upon immediately to appoint a superintendent of the Onondaga penitentiary, a position of conceded political importance. The constituents of Mr. Welch have a right to representation in the board, which ought to have been respected, and action in this matter postponed until the board had disposed of the important public business which required its attention. There was no occasion for such undue haste, unless it was intended in this way to deprive the people of the ward which he represents of a voice in the county legislature, and a lawfully elected majority of the board of its power to give expression to the popular will

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## COMMUTATIONS

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January 15, 1891. Oliver Street. Sentenced December 22, 1887; county, Ontario; crime, robbery, second degree; term, five years and four months; prison, Auburn.

Sentence commuted to imprisonment in Auburn prison for the term of three years and twenty-one days, actual time, from December 26, 1887.

The prisoner's two confederates have already been discharged by special commutation, and the judge and the district attorney recommend that like clemency be exercised in favor of Street. This was his first offense and the object of punishment has been fully accomplished.

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January 15, 1891. Cornelius Brackett. Sentenced October 18, 1889; county, Chenango; crime, assault, first degree; term, five years; prison, Auburn.

Sentence commuted to imprisonment in Auburn prison for the term of one year, two months and twenty-six days, actual time, from October 21, 1889.

The complainant and the prisoner exchanged several pistol-shots, and on the trial each claimed that the other was the aggressor and that the shots fired by himself were in self-defense. They were the only witnesses to the occurrence and there were many circumstances tending to support the prisoner's account of it. He had always been a man of good character, and his pardon is recommended by the judge and the district attorney, and many other reputable citizens of Chenango county.

January 22, 1891. Harry H. Stevens. Sentenced August 5, 1890; county, New York; crime, petit larceny; term, one year; prison, New York County Penitentiary.

Sentence commuted to imprisonment in New York County Penitentiary for five months and seventeen days, actual time, from August 6, 1890.

The prisoner, now undergoing punishment for his first offense, is ill with a complication of disorders, and, the physician states, cannot survive his sentence.

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February 25, 1891. William Coleman. Sentenced June 10, 1886; county, Schenectady; crime, arson, second degree; term, ten years; prison, Clinton.

Sentence commuted to imprisonment in Clinton prison for four years, eight months and seventeen days, actual time, from June 11, 1886.

Recommended by the district attorney who prosecuted the case, by the present district attorney and by many other prominent citizens of Schenectady county, all of whom testify to the good character of the prisoner before his arrest. He has been sufficiently punished, and has a family greatly in need of his support

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March 10, 1891. Frank Fish. Sentenced May 24, 1890, to be executed; county, Ontario; crime, murder, first degree.

Sentence commuted to imprisonment for life in Auburn prison.

This case was appealed to the Court of Appeals and is reported in 125 N. Y. Reports, at page 136, where the facts are stated. Although no error appeared calling for a reversal of the judgment still it is easily inferred from the opinion of the court that the judges regarded it as a very proper case for relief from the extreme penalty of the law. Commutation to imprisonment for life is also earnestly recommended by the judge who presided at the trial, by all of the jury and by many residents of Ontario county, and is fully warranted by all the circumstances of the case.



March 16, 1891. Henry Martin. Sentenced March 16, 1882; county, Ontario; crime, robbery; term, fifteen years; prison, Auburn.

Sentence commuted to imprisonment in Auburn prison for the term of nine years and three days, actual time, from March 16, 1882.

The prisoner is now released for the reason that, being ill with consumption, he cannot probably outlive the few months remaining of his sentence.

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March 20, 1891. Matthew McNerny. Sentenced February 26, 1886; county, New York; crime, robbery, first degree; term, twelve years and six months; prison, Sing Sing.

Sentence commuted to imprisonment in Sing Sing prison for the term of four years, eleven months and nineteen days, actual time, from January 6, 1887.

Allowing for good conduct the sentence as commuted is equivalent to a term of about seven years and six months, which is deemed sufficient for the crime actually committed. The prisoner's previous character was good and he is promised a desirable situation by a former employer.

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March 21, 1891. Thomas McCartney. Sentenced July 20, 1888; county, New York; crime, perjury; term, seven years and six months; prison, Sing Sing; transferred to Auburn.

Sentence commuted to imprisonment in Auburn prison for the term of two years, eight months and five days, actual time, from July 21, 1888.

McCartney is feeble bodily and mentally by reason of old age. The prison physician reports that he is rapidly failing and will soon die of senile decay. With the commutation allowed by statute he has now served three and one-half years, and no useful purpose can be accomplished by further imprisonment.

May 1891. George H. Webb. Sentenced March 14, 1890; county, New York; crime, dealing a banking game; term, one year and ten months; prison, New York County Penitentiary.

Sentence commuted to imprisonment in New York County Penitentiary for the term of one year, one month and ten days, actual time, from March 28, 1890.

Recommended by the judge who sentenced the prisoner and by many citizens. Webb can obtain employment immediately on his discharge and be thereby enabled to earn a good support for his family who are now quite destitute; and as this was his first offense further imprisonment is not necessary.

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May 8, 1891. Jerry Donohue. Sentenced September 18, 1885; county, Schenectady; crime, robbery, second degree; term, twelve years; prison, Clinton; transferred to Auburn.

Sentence commuted to imprisonment in Auburn prison for the term of five years, seven months and twenty-one days, actual time, from September 19, 1885, on condition that he totally abstain from the use of intoxicating liquors for a period of five years.

Granted on the recommendation of Hon. John W. Crane, Hon. John Foley, Hon. A. Pond, Hon. J. S. L'Amoreaux, Hon. W. B. French, Hon. Charles E. Palmer, Hon. J. T. Schoolcraft and others, upon the ground of the undue severity of the sentence. The prisoner had never before been accused of any criminal offense and was intoxicated when he committed this one, and the punishment already inflicted has been ample and effectual.

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May 19, 1891. John F. McGrath. Sentenced January 25, 1887; county, New York; crime, manslaughter, second degree; term, eight years; prison, Sing Sing.

Sentence commuted to imprisonment in Sing Sing prison for the term of three years, three months and twenty days, actual time, from January 31, 1888, on condition that he totally abstain from the use of intoxicating liquors for the period of five years.

Recommended by the district attorney and many reputable citizens. During a dispute between them the deceased struck the prisoner, who returned the blow, knocking the deceased down, his head striking against an iron rail, causing injuries from which he died. The blow was with the fist and of itself inflicted no injury ; there was an entire absence of all intent seriously to harm the deceased, and it is altogether probable that the prisoner would not have been guilty of any violence whatever, had not the deceased struck the first blow. The unfortunate result of the encounter was quite accidental, and under all the circumstances the punishment already imposed seems sufficient.

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May 22, 1891. Alexander Geddes. Sentenced February 21, 1888 ; county, Greene ; crime, grand larceny, first degree ; maximum term, ten years ; prison, State Reformatory ; transferred to Auburn.

Sentence commuted to imprisonment in Auburn prison for the term of three years, three months and four days, actual time, from February 22, 1888.

The physician reports that Geddes is rapidly failing and can live but a short time. The commutation is granted in order that he may be taken home before death.

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May 26, 1891. Thomas A. Woods. Sentenced February 3, 1890 ; county, St. Lawrence ; crime, forgery, second degree ; term, five years ; prison, Clinton.

Sentence commuted to imprisonment in Clinton prison for the term of one year, three months and twenty-one days, actual time, from February 7, 1890.

The offense in this case was the forging of an order for four dollars' worth of nursery stock, which the prisoner was engaged in selling for a commission.

The judge writes that although the sentence imposed was the minimum for the crime committed, still he felt at the time that it

was too severe, and he unites with the district attorney in recommending its commutation.

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June 4, 1891. Frederick Easton. Sentenced September 13, 1888; county, Wyoming; crime, burglary, first degree; term, twenty-six years; prison, Auburn.

Sentence commuted to imprisonment in Auburn prison for the term of two years, eight months and eighteen days, actual time, from September 18, 1888.

Recommended by the late Judge Corlett, who imposed the sentence, by E. M. Bartlett, who was district attorney at the time of the conviction, by George W. Botsford, the present district attorney, by the Hon. L. W. Thayer, Charles J. Gardner, and many other residents of Wyoming county. This was a first offense, the prisoner was little more than twenty years of age, of previous good character, and was acting under the influence of an older companion. His conduct during imprisonment has been good, and it is believed that the lesson he has received will deter him from any further violation of the law.

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June 8, 1891. Alice Delong. Sentenced September 29, 1888; county, Albany; crime, manslaughter, second degree; term, nine years; prison, Albany County Penitentiary.

Sentence commuted to imprisonment in Albany County Penitentiary for the term of three years, two months and twenty-six days, actual time, from September 29, 1888.

The district attorney who prosecuted the prisoner, very earnestly urges clemency in her behalf, on the ground of excessive punishment. The application is also favored on the same ground, by the Hon. John Battersby, the Hon. D. Cady Herrick, the Hon. John Bowe, and others. The offense committed was a serious one, but the term imposed was much greater than the circumstances of the case demanded. The sentence as commuted is quite enough.

June 17, 1891. Thomas Ford. Sentenced November 13, 1885; county, Erie; crime, murder, second degree; term, life; prison, Auburn.

Sentence commuted to imprisonment in Auburn prison for the term of five years, seven months and five days, actual time, from November 14, 1885.

Granted on the application of the Hon. George T. Quinby (who, as assistant district attorney, conducted the prosecution), upon the ground that the offense was not more than manslaughter in the first degree, committed under unusual provocation, and in a moment of great excitement. The evidence given on the trial, which has been carefully examined, fully sustains this view of the case. The prisoner was an industrious man, of good character, and has abundantly atoned for his offense.

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June 23, 1891. John Baker. Sentenced February 5, 1890; county, Monroe; crime, bigamy; term, four years and eleven months; prison, Auburn.

Sentence commuted to imprisonment in Auburn prison for the term of one year, four months and eighteen days, actual time, from February 7, 1890.

Recommended by the judge who imposed the sentence, and by many prominent citizens of Rochester. The prisoner, a man of weak intellect, but of good character, contracted the second marriage under the advice, and in the belief, that he was free from the obligations of the first one, because his wife had abandoned him a number of years before, and had gone to live with another man. There was no criminal intent.

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June 24, 1891. John D. Watson. Sentenced June 11, 1888; county, New York; crime, grand larceny, second degree; term, four years; prison, Sing Sing.

Sentence commuted to imprisonment in Sing Sing prison for two years, four months and twenty-five days, actual time, from January 31, 1889.

Watson was sentenced June 11, 1888, and ought to have been transferred to the State prison at once. Had this been done, his sentence, by allowing the commutation provided by statute, would have expired some days ago. But owing to an oversight on the part of the officer whose duty it was to see that the transfer was made, he was kept in the Tombs prison until January 31, 1889, and if compelled to serve out his term at Sing Sing, will not be discharged until January 30, 1892. He ought not to be made to suffer for the neglect of the officer for which he was not in any way responsible, and in order to prevent injustice in that respect the time during which he remained in the Tombs prison after his sentence ought to be allowed as so much of the term imposed by the court. This will be effected substantially by the commutation granted.

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June 30, 1891. Edwin M. Whipple. Sentenced February 10, 1882; county, Allegany; crime, manslaughter, first degree; term, nineteen years and six months; prison, Auburn.

Sentence commuted to imprisonment in Auburn prison for the term of nine years, four months and ten days, actual time, from February 22, 1882, on condition that he forever hereafter totally abstain from the use of intoxicating liquors.

The prisoner went into a shooting gallery having in his possession a loaded revolver; an attempt was made to take it away from him; the revolver was discharged and the deceased was killed. The prisoner claimed and still claims that he had the revolver only for the purpose of shooting at a target, and that its discharge was purely accidental, being caused by the struggle for its possession; but that being indicted for murder in the first degree he pleaded guilty of manslaughter under the advice of counsel, it being feared that the fact that another homicide and a number of affrays had taken place in the neighborhood a short time before would prejudice him upon a trial. Whipple appears to have been a man of good character except that he was addicted to habits of intemperance. His

conduct in prison is reported by the warden as "extra good." The district attorney (the late George U. Loveridge) in making a report of the case very earnestly supported the application, saying that he had always had serious doubts as to whether Whipple intentionally fired the fatal shot. The judge while not directly recommending favorable action expresses the opinion that "if it were certain that Whipple would abstain from stimulants it might be safe to set him at liberty." The petition is signed by nearly all of the grand jury, by the Hon. S. M. Norton, the Hon. Clarence A. Farnum and many other leading citizens of Allegany county. With the commutation earned the time now served is equivalent to a term of nearly fifteen years. Upon a consideration of all the facts it is deemed best to grant the application upon the condition above stated.

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July 1, 1891. James Tracy. Sentenced April 3, 1886; county, Westchester; crime, burglary, first degree; term, ten years; prison, Sing Sing.

Sentence commuted to imprisonment in Sing Sing prison for the term of five years, two months and twenty-six days, actual time, from April 7, 1886.

Strongly recommended by the judge, the district attorney and many others. The prisoner's previous character was good and he has fully expiated his offense.

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July 6, 1891. James C. King. Sentenced March 13, 1874; county, New York; crime, murder, second degree; term, life; prison, Sing Sing; transferred to Auburn.

Sentence commuted to imprisonment in Auburn prison for the term of seventeen years, three months and nineteen days, actual time, from March 20, 1874.

The jury had a great deal of difficulty in coming to an agreement in this case. One of them makes the statement that at one time during their deliberations more than half their number were

in favor of rendering a verdict of manslaughter in the third degree. The fact that at the time of the homicide murder in the second degree was punishable by imprisonment for a term not less than ten years, and not necessarily for life, undoubtedly had considerable influence upon their final action. Seven of the jurors (all who can now be found) unite in urgently recommending that King be liberated. While the application was pending the late Judge Brady, who sentenced the prisoner, wrote saying that "the exemplary conduct of King during his confinement and the long period that has expired since his sentence may, I think, be justly considered by the Governor on his application for a pardon." The application has also received the earnest support of the Hon. Abram S. Hewitt, the Hon. Henry J. Scudder, the Hon. Wilson G. Hunt, the Hon. A. J. Vanderpoel and other prominent citizens who were familiar with the case.

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July 21, 1891. Joseph M. Stark. Sentenced December 17, 1884; county, Jefferson; crime, burglary, second degree, and grand larceny, first degree; term, seventeen years; prison, Auburn.

Sentence commuted to imprisonment in Auburn prison for the term of six years, seven months and seven days, actual time, from December 19, 1884.

The time already served with commutation earned by good conduct is equivalent to a ten years' term, the severest penalty of the law for burglary in the second degree, and seems ample for the crime committed.

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July 25, 1891. Sarah Koll. Sentenced November 20, 1888; county, Kings; crime, rape; term, five years; prison, Kings County Penitentiary.

Sentence commuted to imprisonment in Kings County Penitentiary for the term of two years, eight months and seven days, actual time, from November 21, 1888.

Granted on the application of the physician of the penitentiary who states that in order to save the prisoner's life a surgical oper-



ation of considerable magnitude and risk is necessary and must be performed at once, and that the chances of success will be greater if she is removed to a hospital where she can have more suitable surroundings and care.

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August 5, 1891. Alvah Hicks. Sentenced October 16, 1883; county, Chemung; crime, rape; term, fourteen years; prison, Auburn.

Sentence commuted to imprisonment in Auburn prison for the term of seven years, nine months and fifteen days, actual time, from October 27, 1883.

The commutation takes about one year from the prisoner's term, and is granted for good conduct in prison, and also on account of some doubt as to his guilt produced by affidavits made by the complainant and others which tend to show that no rape was committed.

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August 14, 1891. Charles E. White. Sentenced March 22, 1888; county, Rensselaer; crime, forgery, second degree; term, five years; prison, Clinton.

Sentence commuted to imprisonment in Clinton prison for the term of three years, three months and twenty-two days, actual time, from March 27, 1888.

White is very low with consumption. His term will expire in October next, but there is very little hope of his living until then and his friends desire to take charge of him.

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August 20, 1891. Benjamin Cornick. Sentenced June 10, 1886; county, Schenectady; crime, arson, first degree; term, ten years; prison, Clinton.

Sentence commuted to imprisonment in Clinton prison for the term of five years, two months and twelve days, actual time, from June 12, 1886.

Recommended by the district attorney and many citizens. Cornick's previous character was good, and his conduct since convic-

tion has been without fault. His two associates have been already released, one of them by special commutation.

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August 20, 1891. Peter Disch. Sentenced December 19, 1889; county, Erie; crime, grand larceny, second degree; term, three years; prison, Erie County Penitentiary.

Sentence commuted to imprisonment in Erie County Penitentiary for the term of one year, eight months and six days, actual time, from December 19, 1889.

Granted on the recommendation of Hon. William W. Hammond (before whom the prisoner was tried), Hon. Jacob Stern, Hon. Charles F. Bishop, Hon. John B. Sackett, George Bleistern, Oliver A. Jenkins and other prominent citizens of Buffalo. Before the commission of the crime charged against him Disch had always borne an irreproachable character, and the shortest term of imprisonment provided by law was all that the case demanded.

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August 21, 1891. Richard Warren. Sentenced May 20, 1885; county, Westchester; crime, manslaughter, second degree; term, ten years; prison, Sing Sing.

Sentence commuted to imprisonment in Sing Sing prison for the term of three years, eight months and six days, actual time, from December 19, 1887, on condition that he totally abstain from the use of intoxicating liquors for the period of five years.

This case was tried twice, the first jury failing to agree. The second jury accompanied their verdict with a recommendation of mercy. A sentence of five years would have been quite ample under the circumstances. The time already served is more than equivalent to a sentence of five years, allowance being made for good conduct. A commutation is very earnestly recommended by the judge, the district attorney and ten of the jurors. Also by the Hon. W. H. Barnum, of Connecticut, the Hon. William Ryan, the Hon. Bradford Rhodes and many leading citizens of Westchester county.

August 21, 1891. Peter Malone. Sentenced February 11, 1890; county, Columbia; crime, burglary, third degree; term, three years; prison, Clinton.

Sentence commuted to imprisonment in Clinton prison for the term of one year, six months and nineteen days, actual time, from February 14, 1890.

Malone with a number of other young men broke into a cigar store and stole about thirty dollars' worth of cigars. He alone was prosecuted. His companions although well known and equally guilty have never been arrested. The complainant, the mayor, the recorder and other leading citizens of Hudson ask that the residue of his sentence be remitted. In view of all the circumstances justice does not require his further detention in prison.

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August 21, 1891. Frank McNeil. Sentenced April 30, 1887; county, Monroe; crime, burglary, first degree; term, twelve years and six months; prison, Auburn

Sentence commuted to imprisonment in Auburn prison for the term of four years, two months and thirty days, actual time, from May 28, 1887.

August 21, 1891. William E. Smith. Sentenced July 5, 1887; county, Monroe; crime, burglary, first degree; term, eleven years and three months; prison, Auburn.

Sentence commuted to imprisonment in Auburn prison for the term of four years, one month and thirteen days, actual time, from July 13, 1887.

Granted in consideration of the youth and previous good character of the prisoners, and of their good conduct during imprisonment. They were enticed by an older person to engage in the crime, and the petition for their pardon is signed by many of the best citizens of the town where it was committed and where the prisoners resided.

August 24, 1891. Max Deiglmayr. Sentenced February 14, 1888; county, New York; crime, forgery, second degree; term, eight years; prison, Sing Sing; transferred to Auburn.

Sentence commuted to imprisonment in Auburn prison for the term of three years, six months and ten days, actual time, from February 16, 1888.

Recommended by the district attorney, the complainants, and others. No one suffered pecuniary loss by reason of the prisoner's act, and he, himself, reaped no advantage from it; and it was committed under circumstances not calling for severity of punishment. The district attorney states that "the prisoner was ignorant of our language, and that it is claimed that the court was not properly informed of the circumstances of the case at the time sentence was imposed."

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August 28, 1891. Patrick O'Brian. Sentenced December 2, 1885; county, Erie; crime, robbery, second degree; term, ten years; prison, Auburn.

Sentence commuted to imprisonment in Auburn prison for the term of five years, eight months and twenty-three days, actual time, from December 9, 1885.

O'Brian has now something less than a year to serve; he is in the last stage of consumption and cannot probably live another month, and his friends ask that he may go home to die.

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August 31, 1891. James J. Martin. Sentenced June 13, 1883; county, New York; crime, manslaughter, first degree; term, eighteen years and six months; prison, Sing Sing.

Sentence commuted to imprisonment in Sing Sing prison for the term of eight years, two months and eighteen days, actual time, from June 14, 1883, on condition that he totally abstain from the use of intoxicating liquors for the period of five years.

The prisoner, who was very much intoxicated, became engaged

in a dispute with one Ratel, in a bar-room, in the course of which threats of violence were freely interchanged. The prisoner left the room and Ratel followed him, and immediately afterward the shot was fired which caused Ratel's death. The prisoner claims that he acted in self-defense. The evidence filed with the application for clemency does not satisfactorily establish this claim, but it is quite clear that when Ratel followed the prisoner from the bar-room he did so for the purpose of renewing and continuing the dispute, and that no trouble would have ensued, had he permitted the prisoner to go his way unmolested. While the circumstances under which the crime was committed did not in any sense justify the prisoner's act, still, the facts that he was a mere lad, that his character up to the time of the fatal occurrence was irreproachable, that he was at the time greatly excited with liquor, that the deceased followed him up in a manner which the prisoner, in his intoxicated condition, might well have construed as being done with hostile purposes, although no violence was actually offered or intended, and that he has now served a term of thirteen years, allowance being made for good conduct, render the case a proper one for the commutation granted.

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September 2, 1891. George W. Fisher. Sentenced November 30, 1888; county, Erie; crime, forgery, second degree, second offense; term, ten years; prison, Auburn.

Sentence commuted to imprisonment in Auburn prison for the term of two years, eight months and nineteen days, actual time, from December 14, 1888.

The Hon. William W. Hammond, who sentenced the prisoner, very earnestly recommends the granting of the application. He writes that he had serious doubts of the prisoner's guilt at the time of the trial, and does not believe he would have been convicted, had it not appeared that he had been previously convicted of a similar offense. A commutation of the sentence is also

strongly urged by Hon. Charles F. Tabor, Attorney-General, and by a large number of the best citizens of the town of Akron, where Fisher resided.

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September 17, 1891. Edgar J. Riddle. Sentenced October 26, 1889; county, Fulton; crime, forgery, second degree; term, five years; prison, Clinton.

Sentence commuted to imprisonment in Clinton prison for the term of one year, ten months, twenty-three days, actual time, from October 29, 1889.

The prisoner did not belong to the criminal class, but was an industrious and respectable man; the crime for which he is suffering was committed under circumstances of unusual temptation; the Hon. Frothingham Fish, who sentenced him, earnestly favors the application and says that the sentence would have been for a shorter term had the statute permitted it. A pardon is also strongly recommended by the district attorney, by the Hon. Jeremiah Keck, the Hon. Ashley D. L. Baker, the Hon. Robert P. Anibal and other prominent citizens

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September 30, 1891. John G. Lonngren. Sentenced October 25, 1889; county, Chautauqua; crime, grand larceny, first degree; term, five years, one month; prison, Auburn.

Sentence commuted to imprisonment in Auburn prison for the term of one year, eleven months and six days, actual time, from October 26, 1889.

Recommended by the judge, the district attorney, all the county officers and many other leading citizens of Chautauqua county on the ground of the prisoner's previous good character and the sufficiency of the punishment already inflicted. There is also serious doubt as to whether the verdict was warranted by the evidence given on the trial.

October 2, 1891. Samuel E. Wayman. Sentenced September 5, 1890, to be executed; county, Livingston; crime, murder, first degree.

Sentence commuted to imprisonment for life in Auburn prison.

Wayman was convicted in September, 1890, of having murdered Emory Thayer in the town of Avon, Livingston county, in October, 1885. He was indicted in May, 1890, until which time he had not been accused or suspected of the crime. He was convicted on the testimony of two witnesses named respectively Swartz and Salisbury. The former testified that he and Wayman together committed a burglary in Thayer's house, during which Wayman shot and killed Thayer. Salisbury testified that Wayman, while in the Livingston county jail awaiting trial, made to him a full confession of the crime. The character of these witnesses was such as greatly to discredit their testimony. Swartz at first implicated a third person, swearing positively to his participation in the crime. The person so accused succeeded in conclusively proving his innocence, and then and not before, Swartz admitted that the accusation and his testimony in support of it were wholly false. It is clearly established that Swartz had no regard whatever for an oath but was willing and anxious to swear to any thing however false against any person however innocent if his own safety seemed to require it.

Salisbury, the other witness, was in jail on a charge of burglary at the time of the confession sworn to by him and was afterward convicted and sent to the Elmira Reformatory where he now is. The conviction rested almost wholly upon the evidence given by these two witnesses. Circumstances were proved tending to corroborate them, but were not very satisfactory or conclusive. At the time of the homicide Wayman was living in Orleans county. No person except Swartz saw him so as to recognize him in Livingston county, or testified to his absence from Orleans county; and almost five years elapsed before he was accused of the crime. Upon a careful consideration of the whole case and after an examination of all the evidence given on the trial and of that taken by a referee appointed after the filing of the application it seems

best to commute the sentence. While it is probable that Wayman is guilty, still there is enough doubt about it to render it unwise to inflict the death penalty.

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October 10, 1891. Annie Dougherty. Sentenced August 18, 1890; county, New York; crime, grand larceny, second degree; term, two years; prison, New York County Penitentiary.

Sentence commuted to imprisonment in the New York County Penitentiary for the term of one year, one month and twenty-three days, actual time, from August 20, 1890.

Granted on the special application of the Hon. Frederick Smyth, Recorder, who writes that the prisoner was tried before him. That she was then but nineteen years of age. That at the time of pronouncing sentence he stated that he regretted that the law gave him no discretion but compelled him to send her to the penitentiary; that if he had the discretion he should impose a much lighter sentence, and should her conduct in the penitentiary prove good he would recommend a commutation. Her conduct has been good.

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October 16, 1891. Charles Page. Sentenced February 8, 1889; county, New York; crime, forgery, second degree; term, five years, one month; prison, Sing Sing.

Sentence commuted to imprisonment in Sing Sing prison for the term of two years, eight months and nine days, actual time, from February 9, 1889.

By good conduct in prison Page has earned full statutory commutation, making the time now served equivalent to a term of three years and six months. His previous character was good. He pleaded guilty to the charge against him and made all the restitution in his power. He has a family who are in want by reason of his imprisonment and is guaranteed steady employment if released. He has been abundantly punished and the commutation is urged by the judge and many citizens.



October 16, 1891. Thomas Quigley. Sentenced February 28, 1885; county, Washington; crime, robbery, second degree; term, eight years and six months, to begin at the expiration of a prior term; prison, Clinton.

Sentence commuted to imprisonment in Clinton prison for the term of one year, ten months and sixteen days, actual time, from December 2, 1889.

Quigley was convicted of the crime of displacing a railroad switch and was sentenced to imprisonment for the term of seven years. He was also convicted at the same term of court of the crime of robbery in the second degree and was sentenced to imprisonment for the term of eight years and six months, to begin at the expiration of the term first mentioned. He has served the first term, receiving the usual commutation for good behavior, and is now serving the second. There is some doubt as to his guilt. He has been quite severely punished and is released from further imprisonment on the recommendation of the district attorney, the complainant, the Hon. A. J. Cheritree, the Hon. Stephen Brown, the Hon. T. D. Kendrick, the Hon. W. M. Cameron, the Hon. J. M. Whitman, the Hon. H. A. Howard and other prominent citizens.

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October 17, 1891. John Horton. Sentenced September 14, 1889; county, Chemung; crime, forgery, second degree; term, five years and six months; prison, Auburn.

Sentence commuted to imprisonment in Auburn prison for the term of two years, one month and five days, actual time, from September 16, 1889.

Granted on the recommendation of the district attorney and many leading citizens of Chemung county. The punishment already undergone is deemed sufficient for the thorough reformation of the prisoner, and he has a large and helpless family, left destitute for want of his support.

October 26, 1891. Samuel A. Ross. Sentenced June 26, 1891; county, New York; crime, burglary, second degree; term, eight years; prison, Sing Sing; transferred to Auburn.

Sentence commuted to imprisonment in Auburn prison for the term of four months and one day, actual time, from June 27, 1891, on condition that within thirty days he depart for and proceed to the Republic of Liberia, Africa, and do not return to the United States.

Ross is about twenty-one years of age. His father is a prominent merchant, and also occupies a high official position in the Republic of Liberia. The prisoner had been attending a college in this country, and was in the city of New York awaiting transportation to his home in Liberia. He fell in with evil companions, who induced him to take part in the crime of which he was convicted. The indictment was for burglary, and contained also a count for petit larceny. On being arraigned he pleaded guilty to burglary in the second degree. The district attorney states that he does not believe that Ross was aware of the gravity of the crime to which he so pleaded; that upon a trial a jury would have been warranted in returning a verdict of petit larceny; that he has hitherto borne a good character, and is well spoken of by the president of the college where he had been pursuing his studies. The district attorney recommends very earnestly that the application be granted. Ross will be taken to Liberia at once.

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October 30, 1891. John B. Curtis. Sentenced January 20, 1888; county, Saratoga; crime, forgery; maximum term, ten years; prison, State Reformatory; transferred to Auburn.

Sentence commuted to imprisonment in Auburn prison for the term of three years, nine months, seven days, actual time, from January 25, 1888.

The prisoner was, at the time of conviction, twenty years of age. He is the son of a respectable farmer, living in Saratoga county. He was convicted of forging a check for seventy-five

dollars, and was sentenced to the State Reformatory and from there was transferred to the Auburn prison. The transfer commits him to prison for the longest term prescribed by law for the crime charged, viz., ten years. The circumstances do not call for that measure of punishment. The time now served will meet all the requirements of justice. The commutation is granted on the recommendation of the district attorney, of the Hon. Augustus Bockes, the Hon. John W. Crane, the Hon. John R. Putnam, the Hon. James W. Houghton, and many other well-known citizens of Saratoga county.

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November 13, 1891. John J. McDonald. Sentenced February 26, 1886; county, New York; crime, robbery, first degree; term, ten years and six months; prison, Sing Sing.

Sentence commuted to imprisonment in Sing Sing prison for the term of four years, ten months and nine days, actual time, from January 6, 1887.

A careful examination of the evidence given on the trial, and circumstances arising since then, lead to grave doubts as to whether the crime was more than assault in the second degree, the maximum penalty for which is imprisonment for five years. The prisoner has now served, allowing for good conduct, more than seven years. His application for clemency is earnestly favored by many reputable citizens of New York, including seven of the jury who convicted him.

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November 18, 1891. James Meegan. Sentenced September 18, 1885; county, Queens; crime, burglary, first degree; term, ten years; prison, Sing Sing.

Sentence commuted to imprisonment in Sing Sing prison for the term of six years, one month and twenty-nine days, actual time, from September 21, 1885, on condition that he totally abstain from the use of intoxicating liquors for the period of five years.

The sentence was too severe. Meegan's companion, jointly indicted with him and equally guilty, received a sentence of only two years and six months. There was no ground for so great a discrimination. Clemency is recommended by the district attorney, and many of the best citizens of Queens county.

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November 23, 1891. David Brown. Sentenced September 18, 1880; county, Cattaraugus; crime, robbery, first degree; term, twenty years; prison, Auburn.

Sentence commuted to imprisonment in Auburn prison for the term of eleven years, seven months and eleven days, actual time, from September 21, 1880.

A reduction of about nine months is now granted the prisoner, in addition to that earned by him under the statute, upon the recommendation of the judge, the district attorney, eleven of the jury and many citizens. His punishment has been very severe, and this was his first offense.

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November 24, 1891. Frederick Greenwald. Sentenced February 24, 1890; county, Greene; crime, grand larceny, first degree; term, five years; prison, Clinton.

Sentence commuted to imprisonment in Clinton prison for the term of one year, eight months and twenty-seven days, actual time, from February 28, 1890, on condition that he totally abstain from the use of intoxicating liquors for the period of five years.

Recommended by the complainant and many citizens. The prisoner had always borne a good character, and this, his first offense, was due to intoxication. He pleaded guilty and the district attorney endeavored to have him sent to the State Reformatory. The crime was not an aggravated one, and the time already served is all that the circumstances require.

November 24, 1891. Thomas McGinn. Sentenced May 20, 1879; county, Jefferson; crime, petit larceny, second offense; term, three years; prison, Onondaga County Penitentiary.

Sentence commuted to imprisonment in Onondaga County Penitentiary for the term of ten months and thirty-eight days, actual time, from December 27, 1890.

The prisoner was convicted, in 1879, of stealing some jewelry, worth three dollars. He was then sixteen years old. On the way to the penitentiary he escaped from the officer, went West and remained out of the State until December, 1890, when he returned, was arrested, and has since been serving the sentence imposed upon him. During his absence he seems to have led an orderly and industrious life, and to have given abundant proof of his purpose to avoid criminal ways. He has been imprisoned long enough for the offense committed, and his release from further punishment is recommended by the judge who sentenced, and the district attorney who prosecuted him, the present district attorney, and many of the most prominent citizens of Watertown.

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November 24, 1890. Mariano Perrone. Sentenced July 20, 1888; county, New York; crime, assault, first degree; term, seven years; prison, Sing Sing; transferred to Auburn.

Sentence commuted to imprisonment in Auburn prison for the term of three years, three months and eight days, actual time, from August 18, 1888.

Granted at the earnest solicitation of the prisoner's brother. The physician reports that Perrone is ill with consumption, and cannot possibly live more than a week.

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November 25, 1891. Catharine Powers. Sentenced February 16, 1889; county, Erie; crime, grand larceny, second degree; term, five years; prison, Erie County Penitentiary.

Sentence commuted to imprisonment in Erie County Penitentiary for the term of one year, five months and seven days, actual time, from June 20, 1890.

The prisoner is old and in failing health. She may recover if released, but cannot survive long if kept in prison. Clemency in her behalf is urged by the judge and the district attorney.

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November 25, 1891. Frank Jordan. Sentenced February 24, 1888; county, Greene; crime, robbery, first degree; term, twelve years; prison, Clinton.

Sentence commuted to imprisonment in Clinton prison for the term of three years and nine months, actual time, from February 28, 1888.

Jordan was no doubt technically guilty of the crime of robbery and the sentence imposed was but little more than the lowest term prescribed by the statute. Nevertheless the circumstances did not call for punishment of such severity. He is and for several months past has been in the hospital ill with consumption and cannot live a great while if kept in confinement. A pardon is strongly urged by the district attorney, and many citizens of Greene county.

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November 28, 1891. John Haley. Sentenced November 27, 1888; county, Westchester; crime, assault, second degree; term, four years and eight months; prison, Sing Sing.

Sentence commuted to imprisonment in Sing Sing prison for the term of three years and three days, actual time, from November 28, 1888, on condition that he totally abstain from the use of intoxicating liquors for the period of five years.

It is quite doubtful if the evidence warranted a verdict of assault in the second degree. Haley's co-defendant was tried at a later term and although the evidence was quite as strong the jury rendered a verdict of simple assault and battery. The prisoner has but little more than four months yet to serve and a pardon is recommended by the judge, the district attorney, the complainant and many other residents of Westchester county.

December 9, 1891. Alva B. Roraback. Sentenced May 25, 1888; county, Albany; crime, manslaughter, first degree; term, thirteen years; prison, Clinton.

Sentence commuted to imprisonment in Clinton prison for the term of three years and seven months, actual time, from June 1, 1888.

Roraback was convicted of manslaughter under section 191 of the Penal Code relating to the procurement of abortions. It was not claimed nor is there reason to believe that any criminal intimacy had existed between him and the deceased. The limited part he took in the matter was solely in pursuance of her wishes and request and he probably did not realize that his conduct might involve him in the commission of a serious crime. Immediately upon the death of the woman he informed the authorities and made a full disclosure of all the facts and on being arraigned pleaded guilty to the indictment. The district attorney very earnestly recommends that the sentence be commuted to five years. The petition for clemency is signed by a large number of the best citizens of the town of Schodack, where Roraback lived. The sentence as commuted is equivalent to five years with legal deduction for good conduct.

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December 14, 1891. Hiram C. Powers. Sentenced December, 1869, to be executed; county, Lewis; crime, murder, first degree; sentence commuted January 14, 1870, to imprisonment for life; prison, Auburn.

Sentence commuted to imprisonment in Auburn prison for the term of twenty-one years, ten months and twenty-two days, actual time, from January 25, 1870.

Powers was a man of good character and ordinarily peaceable, but of very weak mind. The homicide was committed in the heat of passion and while he was laboring under intense excitement, amounting almost to insanity, caused by the most exasperating conduct on the part of the deceased. A verdict of manslaughter would have been more satisfactory under all the circumstances.

For many years Powers has been regarded as one of the best men in the prison. The Hon. E. S. Merrill who was district attorney at the time of the trial earnestly recommends that he be released. The petition is also signed by the surviving members of the family of the deceased, by all the supervisors of Lewis county and by a large number of citizens.

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December 14, 1891. Alfred J. Lester. Sentenced December 10, 1885; county, Washington; crime, rape; term, nineteen years and ten months; prison, Clinton.

Sentence commuted to imprisonment in Clinton prison for the term of six years and five days, actual time, from December 12, 1885.

Strongly recommended by the district attorney who writes that in his opinion the sentence should not have been for more than five years at the utmost. It also appears by the report of the physician that Lester has been in the hospital for some months, is rapidly failing and cannot recover if kept in prison.

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December 14, 1891. Francis Fletcher. Sentenced November 19, 1887; county, Onondaga; crime, assault, first degree; term, nine years; prison, Auburn.

Sentence commuted to imprisonment in Auburn prison for the term of four years and twenty-three days, actual time, from November 23, 1887.

The prisoner pleaded guilty to assault in the first degree, being assured by his counsel that he would be sentenced to a short term in the penitentiary. Had he made a defense he could not have been convicted of any greater crime than assault in the second degree, the extreme penalty for which is imprisonment for five years. Making the usual deduction for good conduct he has already served more than that term. The judge, the complainant and many citizens of Cayuga county, where Fletcher lived, ask that the application be granted.



December 21, 1891. Patrick Connors. Sentenced December 19, 1889; county, Rensselaer; crime, manslaughter, second degree; term, three years and four months; prison, Clinton.

Sentence commuted to imprisonment in Clinton prison for the term of two years and five days, actual time, from December 20, 1889.

Many leading citizens of Troy urge the favorable consideration of this case on the ground of the prisoner's previous good character, his good conduct since conviction and the provocation which led to the commission of the offense. His sentence will expire in July next, so that the commutation reduces his term about six months.

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December 23, 1891. John A. Davis. Sentenced March 27, 1890; county, Monroe; crime, grand larceny; term, five years; prison, Auburn.

Sentence commuted to imprisonment in Auburn prison for the term of one year, eight months and twenty-seven days, actual time, from March 28, 1890.

I have made it a general rule not to interfere in cases of this character. Ordinarily when an official has been convicted of misappropriating public moneys he should be compelled to serve his full term of imprisonment. Public defaulters usually are not entitled to any sympathy and few mitigating circumstances generally surround their offense.

During the past seven years I have with a single other exception, denied all applications in this class of cases. But I recognize the fact that exceptions may occasionally and very properly be permitted to all general rules, and in that charitable view I have concluded, after much consideration, to exercise clemency toward this unfortunate prisoner.

The defendant in March, 1890, was indicted for having as treasurer of the city of Rochester defaulted in the sum of about sixty thousand dollars. When the deficit was discovered the defendant did not attempt to escape, although he had ample opportunity so

to do, and neither did he seek to deny his guilt. He seemed to be penitent and saved the county the expense and labor of a trial by pleading guilty. He made a full and complete confession and accepted his punishment without a murmur, and his manly conduct at the time of his sentence is said to have won for him the sympathy of the entire community which he had wronged. His sentence was for five years in State prison and he has now served nearly two years of that term. It seems to be conceded that the money which he misappropriated was thoughtlessly used up in extravagant or riotous living, and that he has not now control of a dollar of the money taken by him. He turned over what property he had to his bondsmen who have settled with the city for their liability. He has a family whose suffering on account of his disgrace has aroused general sympathy.

His character, previous to the commission of this offense, was without a blemish. He was a popular fellow—but he lived too high—he was tempted and he fell. His prompt conviction amply vindicated the law. His punishment has answered all the purposes of securing a reformation that a longer service could possibly do. He is not naturally a bad man, and there is every reason to believe that he can make a useful and respectable citizen.

The case presented to me is apparently a strong one. Judge Adams who presided at the trial warmly recommends a pardon. Among other things he writes: "I said once before and I now repeat it that in my opinion, one month's imprisonment of Davis is as much punishment to him as five years would be, and in view of all the circumstances of the case, including the fact that he has a wife and children who are still devoted and loyal to him, and that public opinion, so far as I can judge, appears to justify it, I am disposed to unite in the request for his pardon."

The district attorney who procured the conviction concurs in the judge's recommendation. He writes that, "it has always been, I think, the belief of this community, that he (Davis) did not profit by the use of the city's money; and from my personal

knowledge of the circumstances of this peculiar case and of the man, I respectfully recommend his pardon."

The bondsmen, who financially suffered the most by his offense, cordially unite in asking his release.

About fourteen of the most prominent clergymen of Rochester have requested his pardon.

Some of the largest taxpayers of the city, including Daniel W. Powers, Samuel Wilder, William S. Kimball, and Charles J. Burke, have signed a petition asking for executive clemency.

The editors or proprietors of all the principal newspapers of that city have united with the other citizens in favoring his pardon. The late Secretary of State, Hon. Frederick Cook, ex-Senator Donald McNaughton, ex-Member of Congress Chas. S. Baker, Hon. George Raines, Hon. James S. Graham, and hundreds of other prominent citizens of Rochester have signed the petition for Davis' pardon.

I may reasonably conclude under these circumstances that clemency to this prisoner may be safely and wisely extended, and I have determined to exercise it, trusting that the opportunity which is now afforded him of becoming an honest, useful, and respected citizen may be fully and sincerely improved.

---

December 23, 1891. John F. Lyons. Sentenced June 25, 1886; county, Kings; crime, manslaughter, first degree; term, fourteen years and six months; prison, Sing Sing.

Sentence commuted to imprisonment in Sing Sing prison for the term of five years, five months and twenty-seven days, actual time, from June 28, 1886.

The district attorney states the facts of this case as follows: "The assault committed upon deceased and from which it is alleged he died, was not one of an aggravated character. No weapon of any kind was used. It resulted from a single blow of the fist. Both Lyons and the deceased were employes of a sur-

face railroad company in this city, and on the day the assault is alleged to have been committed, some words were had between them regarding their respective duties. The quarrel terminated in Lyons striking deceased a blow in the face with his fist. A charge of assault and battery was thereafter made against Lyons, and, before the police magistrate he was convicted and fined the sum of ten dollars, which he paid. Some eight or ten days thereafter the deceased became ill and died; and it was claimed on the part of the prosecution that death resulted from the blow that I have heretofore described. This is a fair statement of the facts of the case. Lyons pleaded guilty to manslaughter in the second degree." The district attorney recommends a commutation which will make the term close with the present year, and in view of all the circumstances as above stated and of the prisoner's previous good character, this being his first offense, the commutation so recommended is deemed a proper disposition of the case.

---

December 28, 1891. Patrick Burns. Sentenced December 18, 1890; county, Chemung; crime, grand larceny, second degree; term, two years; prison, Auburn.

Sentence commuted to imprisonment in Auburn prison for the term of one year and eight days, actual time, from December 22, 1890, on condition that he totally abstain from the use of intoxicating liquors for the period of five years.

Burns was convicted of larceny from the person. He was very much intoxicated at the time of the offense. When he became sober he caused the stolen property to be restored to its owner. He had never before been accused of crime, and it is believed that the punishment already imposed will keep him from crime hereafter. The commutation is granted on the application of many well-known citizens of Elmira, and on the recommendation of the judge who presided at the trial.

December 29, 1891. Anthony Murphy. Sentenced March 22, 1890; county, Cattaraugus; crime, grand larceny, second degree; term, two years and seven months; prison, Auburn.

Sentence commuted to imprisonment in Auburn prison for the term of one year, nine months and two days, actual time, from March 29, 1890.

The prisoner is twenty-two years old. This was his first offense. His sentence will expire in April. He is suffering with consumption and cannot possibly live beyond a few days and his mother desires to take him home.

---

December 30, 1891. Patrick Kelly. Sentenced January 6, 1891; county, Herkimer; crime, mayhem; term, five years; prison, Auburn.

Sentence commuted to imprisonment in Auburn prison for the term of eleven months and nine days, actual time, from January 23, 1891.

Recommended by many prominent citizens of Herkimer county. In a fight between the complainant and the prisoner the complainant was seriously injured; but he was in all respects as much to blame for the quarrel as the prisoner was, and there was nothing in the circumstances requiring that Kelly should be punished with much severity. The judge before whom the case was tried writes that he is in favor of a modification of the sentence.

---

December 31, 1891. William F. Warner. Sentenced September 27, 1889; county, Tioga; crime, robbery, third degree; term, five years and six months; prison, Auburn.

Sentence commuted to imprisonment in Auburn prison for the term of two years, three months and five days, actual time, from September 28, 1889.

A careful examination of the evidence introduced on the trial gives rise to considerable doubt as to the prisoner's guilt. If guilty his punishment has been sufficient, and the district attorney

and many leading citizens of Tioga county recommend that the application be granted. \_\_\_\_\_

December 31, 1891. William Conroy. Sentenced April 22, 1885; county, New York; crime, murder, second degree; term, life; prison, Sing Sing.

Sentence commuted to imprisonment in Sing Sing prison for the term of six years, eight months and four days, actual time, from April 29, 1885, on condition that he totally abstain from the use of intoxicating liquors for the period of ten years.

The circumstances of the case seem to exclude the idea of any intention on the part of the prisoner to effect the death of the deceased, and, consequently, to reduce the degree of the crime below that of murder. It was, at most, manslaughter in the first degree, and as such has been adequately punished. Prior to the commission of the offense the prisoner had always borne an excellent character, and his conduct during imprisonment has been free from fault. \_\_\_\_\_

December 31, 1891. George Weidler. Sentenced December 16, 1887; county, Kings; crime, manslaughter, first degree; term, twenty years; prison, Sing Sing.

Sentence commuted to imprisonment in Sing Sing prison for the term of four years and thirteen days, actual time, from December 20, 1887.

The prisoner was indicted for murder in the first degree. He was convicted of manslaughter in the first degree, and was sentenced to imprisonment for twenty years, the severest penalty for the crime. It is stated in the application for clemency that eleven of the jurors were in favor of presenting with the verdict a recommendation of mercy, but that it was prevented by the objection of a single member. Eight of them, together with many other reputable citizens of Brooklyn, ask that the sentence be commuted. The circumstances were such that a lighter sentence would have been fully justified, and the commutation is granted in the belief that the punishment already inflicted is all that the case requires.

December 31, 1891. William J. Kehoe. Sentenced March 20, 1891; county, New York; crime, assault, second degree; term, two years and eight months; prison, New York County Penitentiary

Sentence commuted to imprisonment in New York County Penitentiary for the term of nine months and thirteen days, actual time, from March 20, 1891.

Kehoe is confined to the hospital, being seriously ill, and his recovery, unless released, is quite doubtful. This was his first offense. He has a family dependent on him for support. With the usual commutation he has now served nearly a year which is sufficient for his offense, and justice does not require that he be kept in prison to the permanent detriment of his health

---

December 31, 1891. Daniel Doran. Sentenced February 13, 1875, to be executed; county, Niagara; crime, murder, first degree; sentence commuted July 1, 1875, to imprisonment for life; prison, Auburn.

Sentence commuted to imprisonment in Auburn prison for the term of sixteen years, five months and twenty-four days, actual time, from July 9, 1875.

The petition in this matter is signed by the Hon. A. K. Potter, ex-county judge, the Hon. D. Millar, present county judge, and by many other leading lawyers and business men of Niagara county, who knew of the case at the time of the trial and are familiar with all the circumstances. They express the firm belief that at the time of the homicide, Doran was utterly unable to commit any crime, that he is entirely innocent of the crime of murder and is suffering an unjust penalty. The two justices of Sessions who constituted part of the court, state that they were fully satisfied from the evidence upon the trial that there was never any intention on the part of the convict to commit the crime. The district attorney who prosecuted the case writes, that in his opinion Doran was too much under the influence of liquor to be capable of forming an intent or of executing a design, and he recommends that the prayer of the petition be granted. Many prominent citi-

zens of Rochester and of Canandaigua, where Doran was well known, join in the application. The doubts as to his guilt are too grave to justify further imprisonment.

---

December 31, 1891. Theodore H. Boyce. Sentenced December 9, 1885; county, Dutchess; crime, murder, second degree; term, life; prison, Sing Sing.

Sentence commuted to imprisonment in Sing Sing prison for the term of six years and five days, actual time, from December 28, 1885.

Boyce had a quarrel with his neighbor over the location of a division fence, in the course of which he shot and killed him. There were many extenuating circumstances, and considerable evidence to show that the act was in self-defense. The petition for clemency is signed by a very large number of residents of Dutchess county, including seven of the jurors. In fact, the feeling there in favor of the application is practically unanimous. The district attorney does not oppose it. The judge writes that, "Boyce is an old man, always had a good character, and was respected by his fellows as an honest and kindly man. If legal rigor can be abated the case is a good one for the Governor to exercise his clemency in."

---

December 31, 1891. Willard Parker. Sentenced March 14, 1889; county, Rensselaer; crime, forgery; term, five years; prison, Clinton.

Sentence commuted to imprisonment in Clinton prison for the term of two years, nine months and eighteen days, actual time, from March 16, 1889.

The offense consisted in the endorsing by the prisoner of his employer's name on a check for \$11.12, which had been received by the prisoner in payment for goods sold by him as agent. He had been accustomed, with his employer's consent, to sign the lat-



ter's name to receipts and some other documents and there some ground for the claim that he believed he had authority to endorse the check. But he misappropriated the money. This was his first and only offense, and he has been sufficiently punished for it. The district attorney, the complainant and many prominent citizens of Troy and of Albany ask that the remainder of his term be remitted.

---

December 31, 1891. Edwin E. Cole. Sentenced October 24, 1889; county, Jefferson; crime, rape; term, five years; prison, Auburn.

Sentence commuted to imprisonment in Auburn prison for the term of two years, one month and twenty-five days, actual time, from November 8, 1889.

The crime was not rape within the ordinary meaning of the word, and, although deserving punishment, was not of such a character as to demand great severity. The commutation is granted on the recommendation of many of the best citizens of Jefferson county, concurred in by the district attorney.

---

December 31, 1891. Michael Donovan. Sentenced July 20, 1889; county, Oswego; crime, assault, second degree; term, four years and five months; prison, Auburn

Sentence commuted to imprisonment in Auburn prison for the term of two years, five months and eleven days, actual time, from July 22, 1889.

December 31, 1891. Andrew Hagney. Sentenced July 20, 1889; county, Oswego; crime, assault, second degree; term, four years, five months; prison, Auburn.

Sentence commuted to imprisonment in Auburn prison for the term of two years, five months and eleven days, actual time, from July 22, 1889.

Recommended by all the city officers of Oswego, by the

district attorney who procured the conviction, by nine of the jury and by many others. Under all the circumstances the punishment as commuted is enough for the offense committed.

---

December 31, 1891. Eugene A. Perry. Sentenced December 5, 1873; county, Cayuga; crime, manslaughter, first degree; term, life; prison, Auburn.

Sentence commuted to imprisonment in Auburn prison, for the term of eighteen years and twenty-seven days, actual time, from December 6, 1873.

Since Perry's conviction the highest penalty for the crime committed by him has been reduced by statute to imprisonment for twenty years. With the usual commutation he has now served considerably more than that time and the circumstances of the case are such as to entitle him to the benefit of the change.

## RESPITE.

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July 25, 1891. Samuel E. Wayman. Sentenced September 5, 1890, to be executed; county, Livingston; crime, murder, first degree.

Respite granted until October 6, 1891, in order to allow time for an investigation of the facts of the case on an application for commutation of sentence.



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